

EXHIBIT 5 - 3



Property Insurance

International Endorsement

Effective Date APRIL 30, 1998

Policy Number 3535-11-19

Coverage Territory

1 For Property, Gross Profits and Extra Expense:

- Except for Accounts Receivable, Electronic Data Processing Property, Fine Arts, Valuable Papers, Personal Property In Transit, Research and Development Property, Gross Profits and Extra Expense, and only for the purposes of Differences In Conditions and Excess Coverage, the Coverage Territory is deleted and replaced with the following

The coverage territory is outside the United States of America, its territories and possessions, Canada and Puerto Rico

2 For Business Income (with Extra Expense):

- The first two paragraphs of the Coverage Territory are deleted and replaced with the following

The coverage territory is outside the United States of America, its territories and possessions, and territorial waters, Canada and Puerto Rico

The coverage territory for Exhibition, Fair or Trade Show coverage and In Transit coverage includes the air space used for air shipments, except for the air space used for air shipments in and between the United States of America, its territories and possessions, Canada and Puerto Rico

Under Conditions, and only for the purposes of Differences In Conditions and Excess Coverage, Other Insurance is deleted

Conditions

Other Insurance

Under Conditions, and only for the purposes of Differences In Conditions and Excess Coverage, Mortgage Holder is deleted

Mortgage Holder

Under Limits Of Insurance, and only for the purposes of Differences In Conditions and Excess Coverage, Limits Of Insurance is deleted and replaced with the following:

Limits Of Insurance

Difference In Conditions/Excess Coverage

Except as provided under Pollutant Clean Up Or Removal, the most we will pay in any one occurrence is the amount **covered loss or damage** paid under

- Differences In Conditions and Excess Coverage of this insurance, and

Property Endorsement

(continued)

- all other insurance that we, any other member of the Chubb Group of Insurance Companies, or any **authorized correspondent** issues to you or someone other than you covering your interests;

not to exceed the applicable Limit(s) of Insurance shown in the Declarations, regardless of whether any Coverage, Extensions Of Coverage or Additional Coverage appears in any other contract or contracts which form a part of this policy

Under Deductible, except for Business Income, Gross Profits and Extra Expense, and only for the purposes of Differences In Conditions and Excess Coverage, Deductible is deleted and replaced with the following:

Deductible

We will pay the amount of **covered loss or damage** in excess of the applicable deductible amount shown in the Declarations, for each occurrence

Except for any deductible for Business Income, Gross Profits or Extra Expense shown in the Declarations, if two or more deductibles apply to the same occurrence, only the largest single deductible will apply, unless otherwise stated

Loss Payment Limitations

Under Loss Payment Limitations, and for the purposes of Business Income (with Extra Expense) Differences In Conditions and Excess Coverage, the following limitation is added

- We will deduct from the total business income (and extra expense) loss any amount we paid you under **personal property** insurance for the difference between replacement cost and your net selling price on **merchandise**.

Under Definitions, and only for the purposes of Differences In Conditions and Excess Coverage, the following definitions are added

Definitions

Admitted

Admitted means any contract of insurance that.

- is issued by a State Fund or an insurer licensed or permitted by law to do business in the jurisdiction where the property or exposure to loss is located, and
- is issued to you, or
- is issued to someone (other than you) covering your interests

Admitted does not include any contract of insurance specifically obtained to apply in excess of any Limits Of Insurance shown in the Declarations of this policy



Property Insurance

International Endorsement

Effective Date APRIL 30, 1998

Policy Number 3535-11-19

Authorized Correspondent *Authorized Correspondent* means any privately controlled insurer, other than a member company of the Chubb Group of Insurance Companies, that we indicate is our correspondent, but only for each specific insurance transaction we authorize.

Covered Loss Or Damage *Covered loss or damage* means:

- Direct physical loss or damage;
- **Business income** loss,
- **Extra expense**,
- **Gross profits** loss;
- **Accounts receivable** loss,
- **Leasehold interest** loss;
- **Net rental income and soft cost**, and
- Neighbors and tenants liability loss

covered under this policy

Non-Admitted Jurisdiction *Non-admitted jurisdiction* means any jurisdiction where we are not licensed or permitted by law to issue insurance or are prevented by law or otherwise from investigating, defending or settling any loss or damage

Terrorism *Terrorism* means the use of violence

- directed toward the overthrow or influencing of any government, de jure or de facto; or
- for the purpose of putting the public in fear

Under Definitions, and only for the purposes of Differences In Conditions and Excess Coverage, Finished Stock and Flood are deleted and replaced with the following

Finished Stock *Finished stock* means goods you have manufactured which are in their completed state and ready for sale

Finished stock does not include goods you have manufactured which are in their completed state and ready for sale on the premises of any retail outlet insured by Business Income or Gross Profits Insurance

Property Endorsement
(continued)

All other terms and conditions remain unchanged.

Authorized Representative

Robert Hamburger



Property Insurance

International Endorsement

<i>Policy Period</i>	APRIL 30, 1998 TO APRIL 30, 1999
<i>Effective Date</i>	APRIL 30, 1998
<i>Policy Number</i>	3535-11-19
<i>Insured</i>	NETSCAPE COMMUNICATIONS CORPORATION (SEE NAMED INSURED ENDT)
<i>Name of Company</i>	FEDERAL INSURANCE COMPANY
<i>Date Issued</i>	SEPTEMBER 1, 1998

This Endorsement applies to the following forms:

BUSINESS INCOME (WITH EXTRA EXPENSE)
GROSS PROFITS WITH EXTRA EXPENSE

SCHEDULE OF PREMISES

LTD 28, CLARENDEN STREET
SOUTH MELBOURNE, AUSTRALIA

B P 240.2,
PLACE DE LA DEFENSE
92053 PARIS-LA-DEFENSE, FRANCE

AIRPORT OFFICE PARK MUNICH
AM SOLDNERMOOS 8,
85398 HALLBERGMOOS, GERMANY

ROOM 3201-3, NAT WEST TOWER,
TIMES SQUARE, 1
MATHESON STREET
CAUSEWAY BAY, HONG KONG

D 1, SHANNON INDUSTRIAL ESTATE
SHANNON, CO CLARE, IRELAND

TOKYO OPERA CITY TOWER 29F
3-20-2 NISHI SHINJUKU
SHINJUKU, TOKYO 163-14, JAPAN

STATUS PARK, STATUS 4,
NOBEL DRIVE, HAYES
MIDDLESEX, UB3 5EY UNITED KINGDOM

Property Endorsement
(continued)

Under Coverage Territory, and only for the purposes of Differences In Conditions and Excess Coverage and with respect to the premises shown in the Schedule above, the following is added

Coverage Territory

**Extended Business
Income/Gross Profits/Extra
Expense Coverage
Territory**

The coverage territory is worldwide to the extent that direct physical loss or damage to **property** by a **covered peril** results in the actual or potential impairment of **operations** outside the United States of America, its territories and possessions, and territorial waters, Canada and Puerto Rico.

All other terms and conditions remain unchanged

Authorized Representative





Property Insurance

International Endorsement

Policy Period APRIL 30, 1998 TO APRIL 30, 1999

Effective Date APRIL 30, 1998

Policy Number 3535-11-19

Insured NETSCAPE COMMUNICATIONS CORPORATION
(SEE NAMED INSURED ENDT)

Name of Company FEDERAL INSURANCE COMPANY

Date Issued SEPTEMBER 1, 1998

This Endorsement applies to the following forms

BUSINESS INCOME (WITH EXTRA EXPENSE)

GROSS PROFITS WITH EXTRA EXPENSE

Under Loss Determination, and only for the purposes of Differences In Conditions and Excess Coverage, the following is added

Loss Determination

Business Income/Gross Profits - Dual Trigger

When Business Income and Gross Profits coverage are both made a part of this policy, then Business Income coverage applies exclusively, unless you have **admitted** Loss of Profits or Gross Profits insurance covering the premises where direct physical loss or damage to **property** by a **covered peril** occurs.

Where you maintain such **admitted** insurance, Gross Profits coverage applies instead of Business Income coverage

Neither the Limits Of Insurance shown in the Declarations of this policy, nor the coverage and terms of this policy shall be altered to conform with those of the **admitted** Gross Profits or Loss of Profits insurance, except as respects the **indemnity period**

All other terms and conditions remain unchanged.

Authorized Representative



Property Insurance

International Endorsement

<i>Policy Period</i>	APRIL 30, 1998 TO APRIL 30, 1999
<i>Effective Date</i>	APRIL 30, 1998
<i>Policy Number</i>	3535-11-19
<i>Insured</i>	NETSCAPE COMMUNICATIONS CORPORATION (SEE NAMED INSURED ENDT)
<i>Name of Company</i>	FEDERAL INSURANCE COMPANY
<i>Date Issued</i>	SEPTEMBER 1, 1998

This Endorsement applies to the following forms

ELECTRONIC DATA PROCESSING PROPERTY
VALUABLE PAPERS

Under Coverage Territory, and only for the purposes of Differences In Conditions and Excess Coverage, Coverage Territory for Accounts Receivable, Electronic Data Processing Property, Fine Arts and Valuable Papers is deleted and replaced with the following

Coverage Territory

The coverage territory is outside the United States of America, its territories and possessions, and territorial waters, Canada, and Puerto Rico

The coverage territory for Accounts Receivable In Transit, Electronic Data Processing Property In Transit, Fine Arts In Transit and Valuable Papers In Transit includes the air space used for air shipments, except for the air space used for air shipments in and between the United States of America, its territories and possessions, Canada, and Puerto Rico

All other terms and conditions remain unchanged

Authorized Representative



Property Insurance

Endorsement

<i>Policy Period</i>	APRIL 30, 1998 TO APRIL 30, 1999
<i>Effective Date</i>	APRIL 30, 1998
<i>Policy Number</i>	3535-11-19
<i>Insured</i>	NETSCAPE COMMUNICATIONS CORPORATION (SEE NAMED INSURED ENDT)
<i>Name of Company</i>	FEDERAL INSURANCE COMPANY
<i>Date Issued</i>	SEPTEMBER 1, 1998

This Endorsement applies to the following forms

BUILDING AND PERSONAL PROPERTY

Under Conditions, Loss Payable is deleted, and the following is added:

Conditions

Lenders/Loss Payee

If the Loss Payee shown in the Declarations is a creditor whose interest in **personal property** is established by written evidence and both you and that Loss Payee have an interest in lost or damaged **personal property**, we will

- adjust losses with you, and
- pay any claim for loss or damage jointly to you and the Loss Payee, as interest may appear

However, your Loss Payee has the right to receive loss payment, even though.

- you failed to comply with the terms of this insurance, or
- your Loss Payee starts foreclosure or similar actions on the **personal property**.

The Loss Payee's right to receive loss payment is limited to the lesser of the following

- the amount of loss or damage,
- his financial interest in the **personal property** as shown in the written evidence, or
- the applicable Limit of Insurance for Personal Property shown in the Declarations

If we make loss payments to your Loss Payee when you fail to comply with the terms of this insurance, you will have to pay us to the extent we pay the Loss Payee. Your Loss Payee will still have the right to receive the balance of the debt from you.

We also have the right to pay off the remainder of the debt after making loss payment to your Loss Payee. If we do, you will pay your remaining debt to us.

Property Endorsement
(continued)

If you fail to pay your premium, we may request it from your Loss Payee

The Loss Payee must notify us of any change in ownership known to the Loss Payee

All other terms and conditions remain unchanged

Authorized Representative





Property Insurance

Endorsement

Policy Period APRIL 30, 1998 TO APRIL 30, 1999

Effective Date APRIL 30, 1998

Policy Number 3535-11-19

Insured NETSCAPE COMMUNICATIONS CORPORATION
(SEE NAMED INSURED ENDT)

Name of Company FEDERAL INSURANCE COMPANY

Date Issued SEPTEMBER 1, 1998

This Endorsement applies to the following forms.

BUILDING AND PERSONAL PROPERTY
 BUSINESS INCOME (WITH EXTRA EXPENSE)
 ELECTRONIC DATA PROCESSING PROPERTY
 VALUABLE PAPERS
 RESEARCH AND DEVELOPMENT PROPERTY

SCHEDULE

DEDUCTIBLE OR WAITING PERIOD 2%

Premises All premises within the State of California, except as listed below

Under Deductible, and only with respect to the premises shown in the Schedule above, the following is added

Deductible

Earthquake Sprinkler Leakage

We will pay the amount of loss or damage in excess of the deductible amount or after the waiting period shown in the Schedule above, if such loss or damage is caused by or results from **earthquake sprinkler leakage.**

Such deductible amount or waiting period will apply separately at each premises in each occurrence

If a waiting period is shown in the Schedule above, the waiting period begins immediately following the direct physical loss or damage. Hours shown for a waiting period mean only the normal business hours

Property Endorsement
(continued)

Under Conditions, the following is added.

Conditions

*Single Occurrence -
168 Hours*

If more than one earthquake shock occurs within any period of 168 hours, these earthquake shocks will be considered a single occurrence and deemed to have occurred at the time of the first shock

Definitions

Under Definitions, the following are added

*Earthquake Sprinkler
Leakage*

Earthquake sprinkler leakage means loss or damage caused by or resulting from **leakage from "fire protection equipment"** caused by or resulting from earthquake

Earthquake sprinkler leakage does not mean loss or damage caused by or resulting from **leakage from "fire protection equipment"** caused by or resulting from:

- fire,
- explosion, or
- smoke

which results from earthquake

*Leakage From Fire
Protection Equipment*

Leakage from "fire protection equipment" means

- water or other substance discharged from within any part of the "fire protection equipment" for the premises or for adjoining premises, or
- collapse of tanks forming a part of the fire protection equipment including the component parts or supports of those tanks

"Fire protection equipment" means tanks, water mains, hydrants or valves and any other equipment or its component parts, whether used solely for fire protection or jointly for fire protection and for other purposes.

All other terms and conditions remain unchanged

Authorized Representative



Property Endorsement
(continued)

If two or more direct damage deductibles apply to the same occurrence, only the largest single deductible will apply

If two or more business income deductibles or waiting periods, apply to the same occurrence, only the largest single deductible or waiting period will apply.

Under Definitions, and only with respect to the premises shown in the Schedule above, the following are added.

Definitions

Electric Arcing

Electric arcing means direct physical loss or damage to property caused by or resulting from electric arcing of that property

Electric arcing does not mean

- direct physical loss or damage which results to other insured **building** or **personal property**; or
- ensuing direct physical loss or damage caused by or resulting from a peril not otherwise excluded

Mechanical Breakdown

Mechanical breakdown means direct physical loss or damage to property caused by or resulting from mechanical breakdown of that property

Mechanical breakdown does not mean

- direct physical loss or damage which results to other insured **building** or **personal property**; or
- ensuing direct physical loss or damage caused by or resulting from a peril not otherwise excluded

Steam Boiler

Steam boiler means direct physical loss or damage to any steam boiler, steam pipe, steam turbine or steam engine caused by or resulting from any condition or occurrence within that steam boiler, steam pipe, steam turbine or steam engine; and

- any resulting **business income** loss; or
- any resulting **extra expense**, if covered



Property Insurance

Endorsement

Effective Date APRIL 30, 1998

Policy Number 3535-11-19

All other terms and conditions remain unchanged

Authorized Representative

Robert Hamburger



Property Insurance

Endorsement

<i>Policy Period</i>	APRIL 30, 1998 TO APRIL 30, 1999
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<i>Insured</i>	NETSCAPE COMMUNICATIONS CORPORATION (SEE NAMED INSURED ENDT)
<i>Name of Company</i>	FEDERAL INSURANCE COMPANY
<i>Date Issued</i>	SEPTEMBER 1, 1998

This Endorsement applies to the following forms

BUILDING AND PERSONAL PROPERTY

PERSONAL PROPERTY AT ANY OTHER LOCATION-WORLDWIDE

THE COVERAGE TERRITORY ON FORM 80-02-1000, PAGE 10, BUT ONLY WITH RESPECT TO ANY OTHER LOCATION, IS CHANGED TO

THE COVERAGE TERRITORY IS ANYWHERE IN THE WORLD

All other terms and conditions remain unchanged

Authorized Representative

LIABILITY
DECLARATIONS

Liability Insurance Section

Declarations



Liability Insurance

Declarations

Named Insured and Mailing Address

NETSCAPE COMMUNICATIONS CORPORATION
 (SEE NAMED INSURED ENDT)
 501 E MIDDLEFIELD ROAD
 MOUNTAIN VIEW, CA 94043

Chubb Group of Insurance Companies
 15 Mountain View Road
 Warren, NJ 07059

Policy Number 3535-11-19

Effective Date APRIL 30, 1998

Issued by the stock insurance company indicated below, herein called the company

FEDERAL INSURANCE COMPANY

Producer No. 0008279-99999

Incorporated under the laws of INDIANA

Producer ALBURGER BASSO DE GROSZ INSURANCE SERVICES
 301 ISLAND PARKWAY
 BELMONT, CA 94002-4110

Policy Period

From APRIL 30, 1998 To APRIL 30, 1999
 12.01 A.M. standard time at the Named Insured's mailing address shown above

Liability Coverage

Limit Of Insurance

GENERAL LIABILITY

GENERAL AGGREGATE LIMIT	\$ 2,000,000
PRODUCTS/COMPLETED OPERATIONS AGGREGATE LIMIT	\$ 2,000,000
EACH OCCURRENCE LIMIT	\$ 1,000,000
ADVERTISING INJURY AND PERSONAL INJURY LIMIT	\$ 1,000,000
MEDICAL EXPENSE LIMIT	\$ 10,000

Liability Coverage

Limit Of Insurance

Liability Coverage

(continued)

Limit Of Insurance

STATE:	CALIFORNIA
CLASSIFICATION CODE NUMBER	00183
CLASSIFICATION DESCRIPTION	
ELECTRONIC - SOFTWARE MFG.	
PREMIUM BASIS PREM/OPS EXPOSURE:	
GROSS SALES.	\$ 487,500,000
PREMISES/OPERATIONS RATE:	0 050
PREMIUM BASIS PROD/COM OPS EXPOSURE.	
GROSS SALES	\$ 487,500,000
PRODUCTS/COMPLETED OPERATIONS RATE:	0 019

EMPLOYEE BENEFITS ERRORS OR OMISSIONS

AGGREGATE LIMIT	\$ 1,000,000	
EACH CLAIM LIMIT	\$ 1,000,000	
DEDUCTIBLE - EACH CLAIM		\$ 1,000
RETROACTIVE DATE		APRIL 25, 1995

**COMPUTER SOFTWARE AND SERVICES
ERRORS OR OMISSIONS**

AGGREGATE LIMIT	\$ 2,000,000	
EACH CLAIM LIMIT	\$ 2,000,000	
DEDUCTIBLE - EACH CLAIM		\$ 100,000
RETROACTIVE DATE		MARCH 2, 1995

STOP GAP

AGGREGATE LIMIT	\$ 1,000,000	
BODILY INJURY BY ACCIDENT - EACH ACCIDENT LIMIT	\$ 1,000,000	
BODILY INJURY BY DISEASE - EACH EMPLOYEE LIMIT	\$ 1,000,000	
DESIGNATED STATE		CANADA

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General Liability

Contract

Words and phrases that appear in **bold** print have special meanings and are defined in the Definitions section of this contract

Throughout this contract the words "you" and "your" refer to the Named **Insured** shown in the Declarations of this policy, and any other person or organization qualifying as a Named **Insured** under this contract. The words "we," "us" and "our" refer to the company providing this insurance

In addition to the Named **Insured**, other persons or organizations qualify as **insureds**. Those persons or organizations and the conditions under which they qualify are identified in the Who Is Insured section of this contract

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Who Is Insured

Sole Proprietorship

If you are an individual, you and your spouse are **insureds**, but only with respect to the conduct of a business of which you are the sole owner

Partnership Or Joint Venture

If you are a partnership or joint venture, you are an **insured**. Your members, your partners, and their spouses are also **insureds**, but only with respect to the conduct of your business

Other Organizations

If you are an organization other than a partnership, joint venture or limited liability company, you are an **insured**. Your **executive officers** and directors are **insureds**, but only with respect to their duties as your officers or directors. Your stockholders are also **insureds** but only with respect to their liability as stockholders.

Employees

Your **employees**, other than your **executive officers**, are **insureds**, but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.

No **employee** is an **insured** for

A. **bodily injury or personal injury**

- 1 to you, your partners or members (if you are a partnership, joint venture or limited liability company), or to a co-**employee** while in the course of his or her employment or while performing duties related to the conduct of your business,
- 2 to the spouse, child, parent, brother or sister of that co-**employee** as a consequence of paragraph A 1. above, or
- 3 for which there is any obligation to share damages with or repay someone else who must pay damages because of an injury described in A 1. or A 2. above.

Paragraphs A.1., A 2., and A 3. do not apply to officers or supervisors

B **property damage** to property owned or occupied by or rented or loaned to that **employee**, any of your other **employees**, or any of your partners or members (if you are a partnership, joint venture or limited liability company)

Who Is Insured

(continued)

- Volunteer Workers** Your volunteer workers (at your option) are **insureds**
- Real Estate Manager** Any person (other than your **employee**) or any organization while acting as your real estate manager are **insureds**
- Custodian** Any person or organization having proper temporary custody of your property if you die are **insureds**, but only with respect to the maintenance or use of that property until your legal representative has been appointed
- Legal Representative** Your legal representative is an **insured**, if you die. That representative will have all of your rights and duties, but is an **insured** only with respect to his duties as your legal representative
- Permissive User Of Mobile Equipment** With respect to **mobile equipment** registered in your name under any motor vehicle registration law
- any person is an **insured** while driving such equipment along a public highway with your permission, and
 - any other person or organization responsible for the conduct of such person is also an **insured**, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability.
- No person or organization is an **insured** with respect to
- **bodily injury** to a co-**employee** of the person driving the equipment, or
 - **property damage** to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an **insured** under this provision
- Vendors** Any vendor is an **insured**, but only with respect to **bodily injury** or **property damage** arising out of the distribution or sale of **your products** in the regular course of that vendor's business and only if products/completed operations coverage is provided under this contract
- No vendor is an **insured** with respect to:
- **bodily injury** or **property damage** for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement,
 - any express warranty unauthorized by you,
 - any physical or chemical change in **your products** made intentionally by the vendor;



General Liability

Who Is Insured

Vendors (continued)

- repacking, unless unpacked solely for the purpose of inspection, demonstration, testing or the substitution of parts under instruction from the manufacturer and then repacked in the original container,
- demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of **your products**,
- **your products** which after distribution or sale by you have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance, by or for the vendor,
- any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of **your products**,
- any of **your products** or completed operations contained within the **products-completed operations hazard** which have been excluded from this insurance, or
- any **occurrence** which takes place after the contract with the vendor expires or the end of the policy period, whichever comes first

This insurance does not apply to any person or organization, as **insured**, from whom you have acquired **your products** or any ingredient, part or container, entering into, accompanying or containing **your products**

Lessors Of Premises

Any lessor of leased premises is an **insured**, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and only if you are contractually obligated to provide such coverage as is afforded by this contract

No lessor is an **insured** with respect to

- any **occurrence** which takes place after you cease to be a tenant in the premises or the end of the policy period, whichever comes first;
- structural alterations, new construction, or demolition operations performed by or on behalf of the lessor, or
- **bodily injury, property damage, advertising injury, or personal injury** arising out of the sole negligence of the lessor

Lessors Of Leased Equipment

Any lessor of equipment leased to you is an **insured**, but only with respect to **bodily injury** or **property damage** arising out of the maintenance, operation or use by you of the equipment and only if you are contractually obligated to provide such coverage as is afforded by this contract

No lessor is an **insured** with respect to

- any **occurrence** which takes place after any equipment lease expires or the end of the policy period, whichever comes first; or
- **bodily injury** or **property damage** arising out of the sole negligence of the lessor

Subsidiaries Or Newly Acquired Or Formed Organizations

If there is no other similar insurance available, the following will qualify to be a named **insured**

- Any financially controlled subsidiary of yours, or

Who Is Insured

Subsidiaries Or Newly Acquired Or Formed Organizations (continued)

- any organization you newly acquired or formed during the policy period, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest. This coverage is effective on the acquisition or formation date and is afforded only until the end of the policy period during which the acquisition or formation took place

No subsidiary or newly acquired or formed organization is an **insured** with respect to

- **bodily injury** or **property damage** that occurred before you acquired or formed the organization, or
- **advertising injury** or **personal injury** arising out of an offense committed before you acquired or formed the organization

Limitation On Who Is Insured

No one is an **insured** for the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a named **insured** in the Declarations

Coverage

Bodily Injury, Property Damage, Advertising Injury, And Personal Injury

Subject to the applicable Limits Of Insurance, we will pay damages the **insured** becomes legally obligated to pay by reason of liability imposed by law or assumed under an **insured contract** for

- **bodily injury** or **property damage** to which this insurance applies caused by an **occurrence**, or
- **advertising injury** or **personal injury** to which this insurance applies caused by an offense.

This insurance applies to

- **bodily injury** or **property damage** which occurs during the policy period; and
- **advertising injury** or **personal injury** caused by an offense committed during the policy period.

Damages for **bodily injury** include damages claimed by any person or organization for care or loss of services resulting at any time from the **bodily injury**

Medical Expense

Subject to the applicable Limits Of Insurance, we will pay each person who sustains **bodily injury** caused by an accident all **medical expenses** incurred and reported to us within three years from the date of the accident.

The accident must take place during the policy period and the **bodily injury** must arise out of premises or operations for which you are afforded **bodily injury** liability coverage under this contract. The injured person must submit to examination, at our expense, by physicians of our choice as often as we reasonably require

Limits Of Insurance

The Limits Of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of

- **insureds**,
- claims made or suits brought, or



General Liability

Limits Of Insurance

(continued)

- persons or organizations making claims or bringing **suits**

The Limits Of Insurance apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits Of Insurance.

General Aggregate Limit

Subject to the Each Occurrence Limit and the Advertising Injury And Personal Injury Limit, the General Aggregate Limit is the most we will pay for the sum of

- damages under **bodily injury** and **property damage** coverage, except damages because of **bodily injury** and **property damage** included in the **products-completed operations hazard**;
- damages under **advertising injury** and **personal injury** coverage; and
- **medical expenses** under Medical Expense coverage

Products-Completed Operations Aggregate Limit

Subject to the Each Occurrence Limit, the Products-Completed Operations Aggregate Limit is the most we will pay for damages under **bodily injury** and **property damage** coverage included in the **products-completed operations hazard**.

Advertising Injury And Personal Injury Limit

The Advertising Injury And Personal Injury Limit is the most we will pay under **advertising injury** and **personal injury** coverage for the sum of all damages involving the same oral or written publication of material, or the same act, regardless of the frequency or repetition thereof, the number or kind of media used, and the number of claimants.

Any amount paid for damages arising out of an offense will reduce the amount of the applicable Aggregate Limit available for payment of damages arising out of any other offense.

If the applicable Aggregate Limit has been reduced by payment of damages to an amount that is less than the Advertising Injury And Personal Injury Limit stated in the Declarations, the remaining Aggregate Limit is the most that will be available for payment of damages arising out of any other offense.

Each Occurrence Limit

The Each Occurrence Limit is the most we will pay for the sum of

- damages under **bodily injury** and **property damage** coverage, and
- **medical expenses** under Medical Expense coverage

because of all **bodily injury** and **property damage** arising out of any one **occurrence**.

Any amount paid for damages arising out of an **occurrence** will reduce the amount of the applicable Aggregate Limit available for payment of damages arising out of any other **occurrence**.

If the applicable Aggregate Limit has been reduced by payment of damages to an amount that is less than the Each Occurrence Limit stated in the Declarations, the remaining Aggregate Limit is the most that will be available for payment of damages arising out of any other **occurrence**.

Limits Of Insurance

(continued)

Medical Expense Limit

Subject to the Each Occurrence Limit described above, the Medical Expense Limit is the most we will pay under Medical Expense coverage for all **medical expense** because of **bodily injury** sustained by one person

Investigation, Defense And Payment Of Damages

We will have the right and duty to defend any **insured** against a **suit** seeking damages for **bodily injury, property damage, advertising injury, or personal injury**. However, we will have no duty to defend any **insured** against a **suit** seeking damages to which this insurance does not apply. We may at our discretion investigate any **occurrence** or offense and settle any claim or **suit** that may result.

The amount we will pay for damages is limited as described in Limits Of Insurance. Our right and duty to defend end when we have used up the applicable Limit Of Insurance in the payment of judgements or settlements under **bodily injury, property damage, advertising injury, personal injury or medical expense**.

We have no further obligation or liability to pay sums or perform acts or services unless explicitly provided for under Supplementary Payments shown below.

Supplementary Payments

We will pay, with respect to any claim we investigate or settle, or any **suit** against an **insured** we defend

- all expenses we incur,
- up to \$2000 for the cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the **bodily injury** liability coverage applies. We do not have to furnish these bonds,
- the premium amount of bonds to release attachments, but only for premium amounts within the amount of insurance available. We do not have to furnish these bonds,
- reasonable expenses incurred by the **insured** at our request to assist us in the investigation or defense of the claim or **suit**, including actual loss of earnings up to \$300 a day because of time off from work,
- costs taxed against the **insured** in the **suit**,
- prejudgment interest awarded against the **insured** on that part of the judgment we pay. If we make an offer to pay the applicable Limit Of Insurance, we will not pay any prejudgment interest based on that period of time after the offer; and
- all interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable Limit Of Insurance

These payments will not reduce the Limits Of Insurance.

Coverage Territory

This insurance applies anywhere. However, the **insured's** responsibility to pay damages must be determined in a **suit** on the merits, in the United States of America, its territories or possessions, Canada or Puerto Rico, or in a settlement we agree to



General Liability

Bodily Injury/Property Damage Exclusions

None of the following exclusions, except Contractual Liability and Expected or Intended Injury, apply to damage to premises rented to you

Aircraft, Auto Or Watercraft

This insurance does not apply to **bodily injury** or **property damage** arising out of the ownership, maintenance, use, operation, **loading or unloading**, or entrustment to others of any

- aircraft,
- **auto**, or
- watercraft

which any **insured** owns, operates, rents or borrows

This exclusion does not apply to

- A watercraft on land at your premises,
- B watercraft that you do not own that is
 - 1 less than 55 feet long, and
 - 2 not being used to carry persons or property for a charge;
- C parking an **auto** on, or on the ways next to, premises you own or rent, provided the **auto** is not owned by or rented or loaned to you or the **insured**;
- D liability assumed under any **insured contract** for the ownership, maintenance, or use of aircraft, or watercraft,
- E **bodily injury** or **property damage** arising out of the operation of any of the equipment listed in paragraph F 2 or F 3 of the definition of **mobile equipment**; or
- F aircraft you do not own, provided
 - 1 the pilot in command holds a currently effective certificate, issued by the duly constituted authority of the United States of America or Canada, designating him or her a commercial or airline transport pilot,
 - 2 it is rented with a trained, paid crew, and
 - 3 it is not being used to carry persons or property for a charge.

Contractual Liability

This insurance does not apply to **bodily injury** or **property damage** for which the **insured** is obligated to pay damages by reason of the assumption of liability in a contract or agreement

This exclusion does not apply to liability for damages

- that the **insured** would have in the absence of the contract or agreement, or
- assumed in an oral or written contract or agreement that is an **insured contract**, provided the **bodily injury** or **property damage** occurs subsequent to the execution of the contract or agreement. When a claim for such **bodily injury** or **property damage** is made, we will defend that claim provided the **insured** has assumed the obligation to defend such claim in the **insured contract**. Such defense payments will not reduce the Limits of Insurance.

Bodily Injury/Property Damage Exclusions

(continued)

Damage To Impaired Property

This insurance does not apply to **property damage to impaired property** or property that has not been physically injured arising out of.

- a defect, deficiency, inadequacy, or dangerous condition in **your product** or **your work**, or
- a delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to **your product** or **your work** after it has been put to its intended use

Damage To Property Of Others (Care, Custody Or Control)

This insurance does not apply to **property damage** to

- personal property of others you rent;
- property of others you hold for sale or entrusted to you for storage or safekeeping;
- property of others on your premises for the purpose of having operations performed on such property by you or on your behalf,
- tools or equipment of others while being used by you in performing your operations, or
- property of others in your custody which you will be installing, erecting, or using in construction

This exclusion does not apply to liability assumed under a sidetrack agreement

Damage To Your Product

This insurance does not apply to **property damage to your product** arising out of it or any part of it.

Damage To Your Work

This insurance does not apply to **property damage to your work** arising out of it or any part of it and included in the **products-completed operations hazard**

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor

Employer's Liability

This insurance does not apply to **bodily injury** to:

- A. an **employee** of the **insured** arising out of and in the course of
 1. employment by the **insured**, or
 2. performing duties related to the conduct of the **insured's** business, or
- B. the spouse, child, parent, brother or sister of that **employee** as a consequence of A. above

This exclusion applies

- whether the **insured** may be liable as an employer or in any other capacity; and



General Liability

Bodily Injury/Property Damage Exclusions

Employer's Liability (continued)

- to any obligation to share damages with or repay someone else who must pay damages because of the injury

This exclusion does not apply to liability assumed by the **insured** under an **insured contract**

Expected Or Intended Injury

This insurance does not apply to **bodily injury** or **property damage** which results from an act that:

- is intended by the insured, or
- can be expected from the standpoint of a reasonable person

to cause **bodily injury** or **property damage**, even if the injury or damage is of a different degree or type than actually intended or expected

This exclusion does not apply to **bodily injury** resulting from the use of reasonable force to protect persons or property

Liquor Liability

This insurance does not apply to **bodily injury** or **property damage** for which any **insured** may be held liable by reason of

- causing or contributing to the intoxication of any person,
- the furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol, or
- any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages

Product Recall

This insurance does not apply to **bodily injury** or **property damage** claimed for any loss, cost, or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of

- **your product,**
- **your work, or**
- **impaired property**

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy, or dangerous condition in it.

**Bodily Injury/Property
Damage Exclusions**

(continued)

Property Formerly Owned This insurance does not apply to **property damage** to premises you sell, give away or abandon, if the **property damage** arises out of any part of those premises.

This exclusion does not apply if the premises are **your work** and were never occupied, rented, or held for rental by you.

Property Owned This insurance does not apply to **property damage** to property you own

*Transportation Of Mobile
Equipment* This insurance does not apply to **bodily injury** or **property damage** arising out of the transportation of **mobile equipment** by an **auto** owned or operated by or rented or loaned to any **insured**.

*Workers' Compensation
And Similar Laws* This insurance does not apply to any obligation of the **insured** under a workers compensation, disability benefits or unemployment compensation law or any similar law.

* * * * *
**Advertising Injury/
Personal Injury
Exclusions**

*Advertising, Broadcasting,
Publishing, Telecasting or
Telemarketing Business* This insurance does not apply to **advertising injury** or **personal injury** arising out of an offense committed by an **insured** whose business is advertising, broadcasting, publishing, telecasting or telemarketing

This exclusion does not apply to offenses A, B, or C under the definition of **personal injury**

Breach Of Contract This insurance does not apply to **advertising injury** arising out of breach of contract

Contractual Liability This insurance does not apply to **advertising injury** or **personal injury** for which the **insured** is obligated to pay damages by reason of the assumption of liability in a contract or agreement

This exclusion does not apply to liability for damages

- that the **insured** would have in the absence of the contract or agreement; or
- assumed in a written contract or agreement that is an **insured contract**, provided the **advertising injury** or **personal injury** results from an offense committed subsequent to the execution of the contract or agreement. When a claim for such **advertising injury** or **personal injury** is made, we will defend that claim provided the **insured** has assumed the obligation to defend such claim in the **insured contract**. Such defense payments will not reduce the Limits of Insurance



General Liability

Advertising Injury/ Personal Injury Exclusions

(continued)

Failure To Conform To Advertising

This insurance does not apply to **advertising injury** arising out of the failure of goods, products or services to conform with advertised quality or performance

Intentional Falsehoods

This insurance does not apply to **advertising injury** or **personal injury** arising out of oral or written publication of material if done by or at the direction of the **insured** with knowledge of its falsity

Prior Acts

This insurance does not apply to **advertising injury** or **personal injury** arising out of oral or written publication of material whose first publication took place before the beginning of the policy period

Willful Violations

This insurance does not apply to **advertising injury** or **personal injury** arising out of the willful violation of a penal statute or ordinance committed by or with the knowledge or consent of the **insured**

Wrong Description

This insurance does not apply to **advertising injury** arising out of the wrong description of the price of goods, products or services.

Medical Expense Exclusions

Athletic Activities

This insurance does not apply to **medical expense** for **bodily injury** to any person taking part in athletics.

Injury To An Insured

This insurance does not apply to **medical expense** for **bodily injury** to any **insured**

Products-Completed Operations

This insurance does not apply to **medical expense** for **bodily injury** included within the **products-completed operations hazard**

Workers' Compensation And Similar Laws

This insurance does not apply to **medical expense** for **bodily injury** to a person, whether or not an **employee** of any **insured**, if benefits for the **bodily injury** are payable or must be provided under a workers' compensation or disability benefits law or a similar law

Policy Exclusions
Intellectual Property

This insurance does not apply to **bodily injury, property damage, advertising injury or personal injury** arising out of or directly or indirectly related to the actual or alleged publication or utterances of oral or written statements, whether made in **advertising** or otherwise, which is claimed as an infringement, violation or defense of any of the following rights or laws:

- copyright, other than infringement of copyrighted advertising materials,
- patent;
- trade dress;
- trade secrets; or
- trademark or service mark or certification mark or collective mark or trade name, other than trademarked or service marked titles or slogans

Nuclear Energy

- A. This insurance does not apply to **bodily injury, nuclear property damage, advertising injury or personal injury**
- 1 with respect to which an **insured** under the policy is also an **insured** under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an **insured** under any such policy but for its termination upon exhaustion of its limit of liability, or
 - 2 resulting from the **hazardous properties of nuclear material** and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the **insured** is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization
- B Under any Medical Expense coverage, this insurance does not apply to expenses incurred with respect to **bodily injury** resulting from the **hazardous properties of nuclear material** and arising out of the operation of a **nuclear facility** by any person or organization
- C This insurance does not apply to **bodily injury, nuclear property damage, advertising injury, or personal injury** resulting from the **hazardous properties of nuclear material**, if
- 1 the **nuclear material** (a) is at any **nuclear facility** owned by, or operated by or on behalf of, an **insured** or (b) has been discharged or dispersed therefrom;
 - 2 the **nuclear material** is contained in **spent fuel or nuclear waste** at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an **insured**, or
 - 3 the **bodily injury, nuclear property damage, advertising injury or personal injury** arises out of the furnishing by an **insured** of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any **nuclear facility**, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion 3 applies only to **nuclear property damage** to such **nuclear facility** and any property therein.



General Liability

Policy Exclusions

(continued)

Pollution

- A This insurance does not apply to **bodily injury, property damage, advertising injury, or personal injury** arising out of the actual, alleged, or threatened discharge, dispersal, seepage, migration, release, or escape of **pollutants**
 - 1 at or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any **insured**,
 - 2 at or from any premises, site or location which is or was at any time used by or for any **insured** or others for the handling, storage, disposal, processing or treatment of waste,
 - 3 which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for any **insured** or any person or organization for whom you may be legally responsible; or
 - 4 at or from any premises, site or location on which any **insured** or any contractors or subcontractors working directly or indirectly on any **insured's** behalf are performing operations:
 - a if the **pollutants** are brought on or to the premises, site or location in connection with such operations by such **insured**, contractor or subcontractor, or
 - b if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize, or in any way respond to, or assess the effects of **pollutants**

Subparagraphs A 1. and A 4 a do not apply to **bodily injury, property damage, advertising injury, or personal injury** arising out of heat, smoke or fumes from a **hostile fire**

- B. This insurance does not apply to any loss, cost or expense arising out of any
 - 1 request, demand or order that any **insured** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of **pollutants**, or
 - 2 claim or **suit** by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, or neutralizing or in any way responding to, or assessing the effects of **pollutants**

This exclusion does not apply to damage to premises rented to you caused by fire, explosion, smoke or leakage from fire protective equipment.

Liability Conditions

Arbitration

We are entitled to exercise all of the **insured's** rights in the choice of arbitrators and the conduct of any arbitration proceeding, except when the proceeding is between us and the **insured**

Bankruptcy

Bankruptcy or insolvency of the **insured** or the **insured's** estate will not relieve us of any obligation to which this insurance applies

Liability Conditions

(continued)

Duties In The Event Of Occurrence, Offense, Claim Or Suit

- A You must see to it that we are notified as soon as practicable of an **occurrence** or an offense which may result in a claim. To the extent possible, notice should include
1. how, when and where the **occurrence** or offense took place,
 2. the names and addresses of any injured persons and witnesses, and
 3. the nature and location of any injury or damage arising out of the **occurrence** or offense
- B If a claim is made or **suit** is brought against any **insured**, you must:
1. immediately record the specifics of the claim or **suit** and the date received; and
 2. notify us in writing as soon as practicable.
- C You and any other involved **insured** must:
1. immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or **suit**,
 2. authorize us to obtain records and other information,
 3. cooperate with us in the:
 - a. investigation or settlement of the claim or
 - b. defense of the **suit**; and
 4. assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the **insured** because of injury or damage to which this insurance may also apply
- D No **insureds** will, except at that **insured**'s own cost, make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent
- E. Notice given by or on behalf of:
1. the **insured**;
 2. the injured person, or
 3. any other claimant;
- to any licensed agent of ours with particulars sufficient to identify the **insured** shall be deemed notice to us
- F Knowledge of an **occurrence** or offense by any agent or **employee** of the **insured** will not constitute knowledge by the **insured**, unless an officer or his designee receives such notice from its agent or **employee**
- G Failure of an agent or **employee** of the **insured**, other than an officer or his designee, to notify us of any **occurrence** or offense which he knows about will not affect the insurance afforded you by this contract
- H If the **insured** reports any **occurrence** or offense as a Workers Compensation claim which later develops into a liability claim, the failure to report such **occurrence** or offense to us will not violate this provision provided the **insured** gives us immediate notice as soon as they are made aware of the fact that the **occurrence** or offense is a claim under this contract



General Liability

Liability Conditions

(continued)

Legal Action Against Us

No person or organization has a right under this insurance:

- to join us as a party or otherwise bring us into a **suit** asking for damages from an **insured**; or
- to sue us on this insurance unless all of its terms have been fully complied with

A person or organization may sue us to recover on an **agreed settlement** or on a final judgment against an **insured** obtained after

- an actual trial in a civil proceeding;
- an arbitration proceeding, or
- an alternative resolution proceeding,

but we will not be liable for damages that are not payable under the terms of this insurance or that are in excess of the applicable Limits of Insurance

Other Insurance

If other valid and collectible insurance is available to the **insured** for a loss we cover under **bodily injury, property damage, advertising injury or personal injury** coverage of this insurance, our obligations are limited as follows:

Primary Insurance

This insurance is primary except when the Excess Insurance provision described below applies

If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then we will share with all that other insurance by the method described in the Method of Sharing provision described below

Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis

- A that is Fire, Extended Coverage, Builders Risk, Installation Risk or similar coverage for **your work**,
- B that is Fire insurance for premises rented to you,
- C if the loss arises out of the maintenance or use of aircraft, **autos** or watercraft to the extent not subject to the Aircraft, Auto Or Watercraft exclusion, or
- D that is valid and collectible **bodily injury, property damage, advertising injury, or personal injury** insurance.
 - 1 provided you by anyone working under contract for you; or
 - 2 provided by another party's policy to which you have been added as an additional insured.

When this insurance is excess, we will have no duty under **bodily injury, property damage, advertising injury or personal injury** coverages to defend any **insured** against a **suit** that any other insurer has a duty to defend. If no other insurer defends, we will undertake to do so, but we will be entitled to the **insured's** rights against all those other insurers

Liability Conditions

*Other Insurance
(continued)*

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- the total amount that all such other insurance would pay for the loss in the absence of this insurance, and
- the total of all deductible and self-insured amounts under all that other insurance

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not purchased specifically to apply in excess of the Limits Of Insurance shown in the Declarations of this insurance

Method of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this method each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

Premium Audit

We will compute all premiums for this insurance in accordance with our rules and rates.

In accordance with the Estimated Premiums section of the Premium Summary, premiums identified by an asterisk are estimated premiums and are subject to audit. In addition to or in lieu of such designation in the Premium Summary, premiums may be designated as estimated premiums in the Liability Insurance Section of this policy. In that event, these premiums will also be subject to audit and the second paragraph of the Estimated Premiums section of the Premium Summary will apply.

Separation Of Insureds

Except with respect to the Limits Of Insurance and any rights or duties specifically assigned in this insurance to the first named **insured**, this insurance applies:

- as if each named **insured** were the only named **insured**; and
- separately to each **insured** against whom claim is made or **suit** is brought.

Transfer Of Rights Of Recovery

If the **insured** has rights to recover all or part of any payment we have made under this insurance, those rights are transferred to us. The **insured** must do nothing after loss to impair them. At our request, the **insured** will bring **suit** or transfer those rights to us and help us enforce them.

This condition does not apply to **medical expense**.

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General Liability

Definitions

WHEN USED WITH RESPECT TO INSURANCE UNDER THIS CONTRACT

Advertising

Advertising means any advertisement, publicity article, broadcast or telecast

Advertising Injury

Advertising injury means injury, other than **bodily injury** or **personal injury**, arising solely out of one or more of the following offenses committed in the course of **advertising** of your goods, products or services.

- oral or written publication of advertising material that slanders or libels a person or organization;
- oral or written publication of advertising material that violates a person's right of privacy, or
- infringement of copyrighted advertising materials or infringement of trademarked or service marked titles or slogans

Agreed Settlement

Agreed settlement means a settlement and release of liability signed by us, the **insured** and the claimant or the claimant's legal representative

Auto

Auto means a land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment. But **auto** does not include **mobile equipment**

Bodily Injury

Bodily injury means physical

- injury,
- sickness, or
- disease

sustained by a person and, if arising out of the foregoing, mental anguish, mental injury, shock, humiliation or death at any time

Employee

Employee includes a **leased worker** but does not include a **temporary worker**

Executive Officer

Executive officer means a person holding any of the officer positions created by your charter, constitution or by-laws

Hazardous Properties

Hazardous properties includes radioactive, toxic or explosive properties

Hostile Fire

Hostile fire means one which becomes uncontrollable or breaks out from where it was intended to be

Impaired Property

Impaired property means tangible property, other than **your product** or **your work**, that cannot be used or is less useful because

- it incorporates **your product** or **your work** that is known or thought to be defective, deficient, inadequate, or dangerous, or

Definitions**WHEN USED WITH RESPECT TO INSURANCE UNDER THIS CONTRACT:***Impaired Property*
(continued)

- you have failed to fulfill the terms of a contract or agreement, if such property can be restored to use by.
- the repair, replacement, adjustment, or removal of **your product or your work**; or
- your fulfilling the terms of the contract or agreement

Insured

Insured means any person or organization qualifying as an insured under the Who Is Insured provision and against whom claim is made or **suit** is brought

Insured Contract

Insured contract means

- a lease of premises,
- a sidetrack agreement,
- an easement or license agreement,
- an obligation as required by ordinance, to indemnify a municipality, except in connection with work for a municipality,
- an elevator maintenance agreement,
- that part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for **bodily injury, property damage, advertising injury, or personal injury** to a third person or organization.

An **insured contract** does not include that part of any contract or agreement that indemnifies an architect, engineer or surveyor for injury or damage arising out of

- preparing, approving or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications, or
- giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage

Leased Worker

Leased worker means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. **Leased worker** does not include a **temporary worker**

Loading or Unloading

Loading or unloading means the handling of property

- after it is moved from the place where it is accepted for movement into or onto an aircraft, **auto** or watercraft,
- while it is in or on an aircraft, **auto** or watercraft, or
- while it is being moved from an aircraft, **auto** or watercraft to the place where it is finally delivered.

Loading or unloading does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, **auto** or watercraft



General Liability

Definitions

(continued)

WHEN USED WITH RESPECT TO INSURANCE UNDER THIS CONTRACT:

Medical Expense

Medical expenses means reasonable expenses for

- first aid administered at the time of an accident,
- necessary medical, surgical, x-ray, and dental services, including prosthetic devices, and
- necessary ambulance, hospital, professional nursing and funeral services

Mobile Equipment

Mobile equipment means any of the following types of land vehicles, including any attached machinery or equipment

- A bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads,
- B vehicles maintained for use solely on or next to premises you own or rent,
- C vehicles that travel on crawler treads,
- D vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted.
 - 1 power cranes, shovels, loaders, diggers or drills; or
 - 2 road construction or resurfacing equipment such as graders, scrapers or rollers;
- E vehicles not described in A , B , C or D. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - 1. air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment, or
 - 2. cherry pickers and similar devices used to raise or lower workers, and
- F. vehicles not described in A , B., C or D above maintained primarily for purposes other than the transportation of persons or cargo. However, self-propelled vehicles with the following types of permanently attached equipment are not **mobile equipment** but will be considered **autos**
 - 1 equipment designed primarily for
 - a snow removal,
 - b road maintenance, but not construction or resurfacing,
 - c street cleaning,
 - 2 cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers, and
 - 3 air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment

Definitions

(continued)

WHEN USED WITH RESPECT TO INSURANCE UNDER THIS CONTRACT

Nuclear Facility

Nuclear facility means:

- A any **nuclear reactor**;
- B any equipment or device designed or used for:
 - 1 separating the isotopes of uranium or plutonium,
 - 2 processing or utilizing **spent fuel**, or
 - 3 handling, processing or packaging **nuclear waste**,
- C any equipment or device used for the processing, fabricating or alloying of **special nuclear material** if at any time the total amount of such material in the custody of the **insured** at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,
- D any structure, basin, excavation, premises or place prepared or used for the storage or disposal of **nuclear waste**,

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations

Nuclear Material

Nuclear material means **source material, special nuclear material or by-product material**

Nuclear Property Damage

Nuclear property damage means **property damage** including all forms of radioactive contamination of property.

Nuclear Reactor

Nuclear reactor means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material

Nuclear Waste

Nuclear waste means any waste material:

- A containing **by-product material** other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its **source material** content, and
- B resulting from the operation by any person or organization of any **nuclear facility** included within the definition of **nuclear facility** under paragraph A or B

Occurrence

Occurrence means an accident, including continuous or repeated exposure to substantially the same general harmful conditions



General Liability

Definitions

(continued)

WHEN USED WITH RESPECT TO INSURANCE UNDER THIS CONTRACT:

Personal Injury

Personal injury means injury, other than **bodily injury**, arising out of one or more of the following offenses committed in the course of your business, other than your **advertising**

- A false arrest, detention or imprisonment,
- B malicious prosecution,
- C the wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person or persons occupy, by or on behalf of its owner, landlord or lessor,
- D oral or written publication of material that slanders or libels a person or organization;
- E oral or written publication of material that violates a person's right of privacy; or
- F discrimination (unless insurance thereof is prohibited by law) based on race, color, religion, sex, age or national origin, except when alleged, charged or suffered by any
 - 1 applicant for employment,
 - 2 present or former **employee**, or
 - 3 prospective **employee**

Pollutants

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be disposed of, recycled, reconditioned or reclaimed.

Products-Completed Operations Hazard

1 **Products-completed operations hazard** includes all **bodily injury** and **property damage** occurring away from premises you own or rent and arising out of **your product** or **your work** except

- products that are still in your physical possession, or
- work that has not yet been completed or abandoned

2 **Your work** will be deemed completed at the earliest of the following times

- when all of the work called for in your contract has been completed
- when all of the work to be done at the site has been completed if your contract calls for work at more than one site,
- when that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed

3 This hazard does not include **bodily injury** or **property damage** arising out of

- the transportation of property, unless the injury or damage arises out of a condition in or on a vehicle created by the **loading or unloading** of it.

Definitions	WHEN USED WITH RESPECT TO INSURANCE UNDER THIS CONTRACT:
<i>Products-Completed Operations Hazard (continued)</i>	<ul style="list-style-type: none"> • the existence of tools, un-installed equipment or abandoned or unused materials; • products or operations for which the classification in our manual rules includes products or completed operations
<i>Property Damage</i>	<p>Property damage means</p> <ul style="list-style-type: none"> • physical injury to tangible property including the resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it, or • loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the occurrence that caused it.
<i>Source Material Special Nuclear Material, and By-Product Material</i>	Source material, special nuclear material, and by-product material have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof
<i>Spent Fuel</i>	Spent fuel means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor
<i>Suit</i>	<p>Suit means a civil proceeding in which damages because of bodily injury, property damage, advertising injury or personal injury to which this insurance applies are alleged. Suit also includes:</p> <ul style="list-style-type: none"> • an arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent, or • any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent
<i>Temporary Worker</i>	Temporary worker means a person who is furnished to you for a finite time period to support or supplement your work force in special work situations such as employee absences, temporary skill shortages and seasonal workloads
<i>Your Product</i>	<p>Your product means</p> <p>A any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by</p> <ol style="list-style-type: none"> 1 you; 2 others trading under your name, or 3 a person or organization whose business or assets you have acquired, and <p>B containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products</p>



General Liability

Definitions

WHEN USED WITH RESPECT TO INSURANCE UNDER THIS CONTRACT:

Your Product *(continued)*

Your product includes

- warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of **your product**, and
- the providing of or failure to provide warnings or instructions

Your product does not include vending machines or other property rented to or located for the use of others but not sold

Your Work

Your work means

- work or operations performed by you or on your behalf, and
- materials, parts or equipment furnished in connection with such work or operations

Your work includes

- warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of **your work**, and
- the providing of or failure to provide warnings or instructions

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Employee Benefits Errors Or Omissions

Contract

Words and phrases that appear in **bold** print have special meanings and are defined in the Definitions section of this contract

Throughout this policy the words "you" and "your" refer to the Named **Insured** shown in the Declarations of this policy, and any other person or organization qualifying as a Named **Insured** under this contract. The words "we," "us" and "our" refer to the company providing this insurance

In addition to the Named **Insured**, other persons or organizations qualify as **insureds**. Those persons or organizations and the conditions under which they qualify are identified in the Who Is Insured section of this contract.

THIS INSURANCE PROVIDES CLAIMS MADE COVERAGE. EXCEPT AS OTHERWISE PROVIDED, SUCH COVERAGE APPLIES ONLY TO CLAIMS FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD. PLEASE READ THIS INSURANCE CAREFULLY

Who Is Insured

Sole Proprietorship

If you are an individual, you and your spouse are **insureds**, but only with respect to the conduct of a business of which you are the sole owner

Partnership Or Joint Venture

If you are a partnership or joint venture, you are an **insured**. Your members, your partners, and their spouses are also **insureds**, but only with respect to the conduct of your business

Other Organizations

If you are an organization other than a partnership, joint venture or limited liability company, you are an **insured**. Your executive officers and directors are **insureds**, but only with respect to their duties as your officers or directors. Your stockholders are also **insureds** but only with respect to their liability as stockholders

Any Other Authorized Person

Any other natural person for whose acts you are legally liable, provided such natural person is authorized to act in the **administration** of your **employee benefit programs**

Subsidiaries Or Newly Acquired Or Formed Organizations

If there is no other similar insurance available, the following will qualify to be a named **insured**:

- Any financially controlled subsidiary of yours, or
- any organization you newly acquired or formed during the policy period, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest. This coverage is effective on the acquisition or formation date and is afforded only until the end of the policy period during which the acquisition or formation took place

No subsidiary or newly acquired or formed organization is an **insured** with respect to any **claim** arising from the **administration** of **employee benefit programs** that occurred before you acquired or formed the organization

Who Is Insured
(continued)

Limitation On Who Is Insured

No one is an **insured** for the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a named **insured** in the Declarations.

Coverage

Subject to the applicable Limits Of Insurance, we will pay damages the **insured** becomes legally obligated to pay for any **claim** arising out of a negligent act, error or omission to which this insurance applies, by or on behalf of the **insured** in the **administration of employee benefit programs**

The **claim** must be made by

- your employee.
- your former employee;
- the beneficiaries or legal representatives of your employee or former employee; or
- your prospective employee

This insurance applies to a negligent act, error or omission only if a **claim** is first made against any **insured** during the policy period.

This insurance does not apply to any negligent act, error or omission which

- occurred prior to the Retroactive Date stated in the Declarations of this insurance;
- occurred on or between the Retroactive Date stated in the Declarations of this insurance and the last day of the policy period stated in the Declarations of this insurance if, on the effective date of this insurance, the **insured** had knowledge of or should have known of any circumstances which might have resulted in a **claim**; or
- occurs after the policy period stated in the Declarations of this insurance

For purposes of this insurance.

- a **claim** by a person or organization will be deemed to have been made when notice of such **claim** is received and recorded by any **insured**, our licensed agent, or by us, whichever comes first; and
- all **claims** for damages by the same person or organization as a result of a negligent act, error or omission will be deemed to have been made at the time the first of those **claims** is made against any **insured**

Limits Of Insurance

The Limits Of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of

- **insureds**,
- **claims** made or **suits** brought; or
- persons or organizations making **claims** or bringing **suits**

The Limits Of Insurance apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits Of Insurance



Employee Benefits Errors Or Omissions

Limits Of Insurance

(continued)

We may pay part or all of the deductible to settle any **claim** or **suit**, and when notified, the **insured** agrees to promptly reimburse us for the deductible paid

All **claims** arising from a single negligent act, error or omission or a series of related negligent acts, errors or omissions shall be deemed to be a single **claim**

Aggregate Limit

Subject to the Each Claim Limit, the Aggregate Limit is the most we will pay for the sum of

- damages for all **claims**, and
- payments made for defense and Supplementary Payments.

Each Claim Limit

The Each Claim Limit is the most we will pay for all damages for each **claim**, including payments made for defense and Supplementary Payments, in excess of the deductible stated in the Declarations

Any amount paid for damages, defense and Supplementary Payments for each **claim** will reduce the amount of the Aggregate Limit available for payment of damages, defense and Supplementary Payments for any other **claim**

If the Aggregate Limit has been reduced by payment of damages, defense and Supplementary Payments for **claims** to an amount that is less than the Each Claim Limit, the remaining Aggregate Limit is the most that will be available for payment of damages, defense and Supplementary Payments for any other **claim**.

Investigation, Defense And Payment Of Damages

We will have the right and duty to defend any **insured** against a **suit** seeking damages for any **claim** arising out of a negligent act, error, or omission. However, we will have no duty to defend any **insured** against a **suit** seeking damages to which this insurance does not apply. We may at our discretion investigate any negligent act, error, or omission and settle any **claim** or **suit** that may result

The amount we will pay for damages is limited as described in Limits Of Insurance. Our right and duty to defend end when we have used up the applicable Limit Of Insurance in the payment of defense, judgments or settlements and payments under Supplementary Payments

The amount we pay to defend any **suit** is part of and will reduce the Each Claim Limit under Limits Of Insurance

We have no further obligation or liability to pay sums or perform acts or services unless explicitly provided for under Supplementary Payments shown below.

Supplementary Payments

Subject to the Limits Of Insurance, we will pay with respect to any **claim** we investigate or settle, or any **suit** against an **insured** we defend

- A all expenses we incur,
- B the premium amount of bonds to release attachments, but only for premium amounts within the amount of insurance available. We do not have to furnish these bonds,
- C reasonable expenses incurred by the **insured** at our request to assist us in the investigation or defense of the **claim** or **suit**, including actual loss of earnings up to \$300 a day because of time off from work,
- D costs taxed against the **insured** in the **suit**.

Supplementary Payments
(continued)

- E. prejudgment interest awarded against the **insured** on that part of the judgment we pay. If we make an offer to pay the applicable Limit Of Insurance, we will not pay any prejudgment interest based on that period of time after the offer; and
- F. all interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable Limit Of Insurance.

Each payment we make under Supplementary Payments will reduce the Each Claim Limit under Limits Of Insurance with the following exceptions

- A. salaries and expenses of our employees or the **insured**'s employees, other than:
 - 1. that portion of our employed attorneys fees, salaries and expenses allocated to a specific **claim** or **suit**,
 - 2. the expenses described in C above, and
- B. fees and expenses of independent adjusters we hire.

Coverage Territory

This insurance applies anywhere. However, the **insured**'s responsibility to pay damages must be determined in a **suit** on the merits, in the United States of America, its territories or possessions, Canada or Puerto Rico, or in a settlement we agree to

Exclusions

Bodily Injury, Property Damage, Advertising Injury Or Personal Injury

This insurance does not apply to **bodily injury, property damage, advertising injury or personal injury**

Contractual Liability

This insurance does not apply to liability of others for which the **insured** is obligated to pay damages by reason of the assumption of liability in a contract or agreement

This exclusion does not apply to liability for damages that the **insured** would have in the absence of such contract or agreement

Discrimination Or Humiliation

This insurance does not apply to actual or alleged humiliation or unlawful discrimination

Dishonest Acts

This insurance does not apply to any dishonest, fraudulent, criminal or malicious act, error or omission by or on behalf of any **insured**, whether acting alone or in collusion with others

Expected Or Intended Damage

This insurance does not apply to any **claim** which results from an act that.

- is intended by the **insured**, or
- can be expected from the standpoint of a reasonable person

to cause damage, even if the damage is of a different degree or type than actually intended or expected



Employee Benefits Errors Or Omissions

Exclusions

(continued)

Fines, Penalties, Punitive Or Exemplary Damages

This insurance does not apply to any assessment, penalty, fine, or punitive or exemplary damages

Performance Failure

This insurance does not apply to:

- the failure of performance of any contract by an insurer,
- the failure of any investment plan to perform as represented by an **insured**,
- the inability of **employee benefit programs** to meet their obligation due to insolvency or inadequate funds; or
- the investment, divestment or non-investment of funds

Statutory Obligation To Employees Or Plans

This insurance does not apply to the **insured's** failure to comply with the provisions of the Internal Revenue Code, any law concerning workers compensation, unemployment compensation, social security or disability benefits, any employment severance law, or the Employee Retirement Income Security Act of 1974 or any similar State or Federal legislation that has been or may be enacted

This exclusion does not apply to the **administration of employee benefit programs**

Termination Of Any Employee Benefit Programs

This insurance does not apply to the termination of any **employee benefit programs**

Wrong Advice

This insurance does not apply to advice given by an **insured** to an employee to participate or not to participate in any investment subscription plan.

Extended Reporting Periods

Basic Extended Reporting Period

A Basic Extended Reporting Period is automatically provided Under this provision

- **claims** first made within 60 days after the end of the policy period, or
- **claims** first made within five years after the end of the policy period for negligent acts, errors or omissions reported to us within 60 days after the end of the policy period

will be deemed to have been made during the policy period of this policy

The Basic Extended Reporting Period does not apply to **claims** that are covered under any subsequent insurance you purchase, or that would be covered, but for exhaustion of the amount of insurance applicable to such **claims**

Notification of **claims** must be in accordance with paragraphs A. and B. of the Duties In The Event Of Negligent Act, Error, Or Omission, Claim Or Suit provision of the Conditions

Extended Reporting Periods

(continued)

Supplemental Extended Reporting Period

A Supplemental Extended Reporting Period is available only by an endorsement and for an additional premium:

- A If purchased, this period starts at the end of the Basic Extended Reporting Period and will be for 10 years. **Claims** first made during this Supplemental Extended Reporting Period will be deemed to have been made during the policy period of this policy, but will be subject to the separate aggregate limit of insurance set forth in paragraph C, below.
- B You must give us a written request to purchase a Supplemental Extended Reporting Period within 60 days after the end of the policy period. The Supplemental Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due.
- C If you comply with paragraph B, above, we will issue the Supplemental Extended Reporting Period Endorsement, and will provide the separate aggregate limit of insurance described below, but only for **claims** to which the Supplemental Extended Reporting Period applies. The separate aggregate Limit Of Insurance will be equal to the dollar amount shown in the Declarations in effect at the end of the policy period for the Aggregate Limit. The Aggregate Limit as shown in the Limits Of Insurance section will be amended accordingly. The Each Claim Limit shown in the Declarations will continue to apply, as set forth in the Limits of Insurance section.
- D We will determine the additional premium for the Supplemental Extended Reporting Period Endorsement in accordance with our rules and rates. The additional premium will not exceed 200% of the annual premium for this insurance.
- E The Supplemental Extended Reporting Period Endorsement will set forth the terms, not inconsistent with this Section, applicable to the Supplemental Extended Reporting Period, including a provision to the effect that the insurance afforded is excess over any other valid and collectible insurance available under policies in force after the Supplemental Extended Reporting Period starts.

When Extended Reporting Periods Apply

We will automatically provide a Basic Extended Reporting Period and, if you purchase it, a Supplemental Extended Reporting Period if:

- A this insurance is canceled or not renewed, or
- B we renew or replace this insurance with other insurance that:
 - 1 has a Retroactive Date later than the Retroactive Date shown in the Declarations for this insurance, or
 - 2 does not apply on a **claims-made** basis.

How Extended Reporting Periods Apply

Extended Reporting Periods:

- A apply only to **claims** for:
 - 1 negligent acts, errors or omissions that occur before the end of the policy period and not before the Retroactive Date, if any, shown in the Declarations
- B do not:
 - 1 extend the policy period or change the scope of coverage provided, or



Employee Benefits Errors Or Omissions

Extended Reporting Periods

How Extended Reporting Periods Apply (continued)

- 2. reinstate or increase the Limits Of Insurance applicable to any **claim** to which this insurance applies, except as described in the Supplemental Extended Reporting Period section above
- C. may not be canceled once in effect.

*** Conditions

Arbitration

We are entitled to exercise all of the **insured's** rights in the choice of arbitrators and the conduct of any arbitration proceeding, except when the proceeding is between us and the **insured**

Bankruptcy

Bankruptcy or insolvency of the **insured** or the **insured's** estate will not relieve us of any obligation to which this insurance applies

Duties In The Event Of Negligent Act, Error, Or Omission, Claim Or Suit

- A. You must see to it that we are notified as soon as practicable of any negligent act, error, or omission which may result in a **claim**. To the extent possible, notice should include
 - 1. how, when and where the negligent act, error, or omission took place, and
 - 2. the names and addresses of any involved persons and witnesses

Notice of any negligent act, error, or omission is not notice of a **claim**
- B. If a **claim** is made or **suit** is brought against any **insured**, you must
 - 1. immediately record the specifics of the **claim** or **suit** and the date received, and
 - 2. notify us in writing as soon as practicable
- C. You and any other involved **insured** must
 - 1. immediately send us copies of any demands, notices, summonses or legal papers received in connection with the **claim** or **suit**,
 - 2. authorize us to obtain records and other information,
 - 3. cooperate with us in the
 - a. investigation or settlement of the **claim** or
 - b. defense of the **suit**, and
 - 4. assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the **insured** because of a negligent act, error, or omission to which this insurance may also apply.
- D. No **insureds** will, except at that **insured's** own cost, make a payment, assume any obligation, or incur any expense, without our consent
- E. Notice given by or on behalf of
 - 1. the **insured**, or
 - 2. any other claimant,

to any licensed agent of ours with particulars sufficient to identify the **insured** shall be deemed notice to us

Conditions

Duties In The Event Of Negligent Act, Error, Or Omission, Claim Or Suit (continued)

- F Knowledge of any negligent act, error, or omission by any agent or employee of the **insured** will not constitute knowledge by the **insured**, unless an officer or his designee receives such notice from its agent or employee.
- G Failure of an agent or employee of the **insured**, other than an officer, or his designee, to notify us of any negligent act, error, or omission which he knows about will not affect the insurance afforded you by this contract

Legal Action Against Us

No person or organization has a right under this insurance

- to join us as a party or otherwise bring us into a **suit** asking for damages from an **insured**; or
- to sue us on this insurance unless all of its terms have been fully complied with

A person or organization may sue us to recover on an **agreed settlement** or on a final judgment against an **insured** obtained after:

- an actual trial in a civil proceeding,
- an arbitration proceeding; or
- an alternative resolution proceeding,

but we will not be liable for damages that are not payable under the terms of this insurance or that are in excess of the applicable Limits of Insurance

Other Insurance

If other valid and collectible insurance is available to the **insured** for a loss we cover under this insurance, our obligations are limited as follows

Excess Insurance

This insurance is excess over and above any other valid and collectible insurance (including any deductible or self-insured portion) or agreement of indemnity, available to you

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis that is effective prior to the beginning of the policy period shown in the Declarations of this insurance and applies to the **administration of employee benefits programs** on other than a claims made basis, if

- no Retroactive Date is shown in the Declarations of this insurance, or
- the other insurance has a policy period which continues after the Retroactive Date shown in the Declarations of this insurance

We will have no duty under this insurance to defend any **insured** against a **suit** that any other insurer has a duty to defend. If no other insurer defends, we will undertake to do so, but we will be entitled to the **insured's** rights against all those other insurers.

We will pay only our share of the amount of the loss, if any, that exceeds the sum of

- the total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- the total of all deductible and self-insured amounts under all that other insurance

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not purchased specifically to apply in excess of the Limits Of Insurance shown in the Declarations of this insurance.



Employee Benefits Errors Or Omissions

Conditions

(continued)

Premium Audit

We will compute all premiums for this insurance in accordance with our rules and rates

In accordance with the Estimated Premiums section of the Premium Summary, premiums identified by an asterisk are estimated premiums and are subject to audit. In addition to or in lieu of such designation in the Premium Summary, premiums may be designated as estimated premiums in the Liability Insurance section of this policy. In that event, these premiums will also be subject to audit and the second paragraph of the Estimated Premiums section of the Premium Summary will apply

Separation Of Insureds

Except with respect to the Limits Of Insurance and any rights or duties specifically assigned in this insurance to the first named **insured**, this insurance applies

- as if each named **insured** were the only named **insured**, and
- separately to each **insured** against whom **claim** is made or **suit** is brought

Transfer Of Rights Of Recovery

If the **insured** has rights to recover all or part of any payment we have made under this insurance, those rights are transferred to us. The **insured** must do nothing after loss to impair them. At our request, the **insured** will bring **suit** or transfer those rights to us and help us enforce them

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Employee Benefits Errors Or Omissions

Definitions

WHEN USED WITH RESPECT TO INSURANCE UNDER THIS CONTRACT:

Administration

Administration means

- informing employees of the content of,
- giving advice, other than legal advice, about,
- handling of records in connection with, or
- effecting enrollment, termination or cancellation of employees under,

employee benefit programs, provided such acts are authorized by you

Advertising

Advertising means any advertisement, publicity article, broadcast or telecast.

Advertising Injury

Advertising injury means injury, other than **bodily injury** or **personal injury**, arising solely out of one or more of the following offenses committed in the course of **advertising** of your goods, products or services

- oral or written publication of advertising material that slanders or libels a person or organization,
- oral or written publication of advertising material that violates a person's right of privacy, or
- infringement of copyrighted advertising materials or infringement of trademarked or service marked titles or slogans

Agreed Settlement

Agreed settlement means a settlement and release of liability signed by us, the **insured** and the claimant or the claimant's legal representative

Bodily Injury

Bodily injury means physical injury, sickness, disease, mental anguish, mental injury, shock, or humiliation sustained by a person. It also includes death at any time resulting therefrom

Claim

Claim means a demand for damages.

Employee Benefit Programs

Employee benefit programs means group life insurance, group health insurance, group dental insurance, group automobile insurance, group homeowners insurance, educational tuition reimbursement plans, individual retirement account (IRA) plans, Internal Revenue Code Section 401(K) plans and amendments thereto, profit sharing plans, pension plans, employee investment subscription plans, workers compensation, unemployment insurance, social security, disability benefits insurance or travel, savings or vacation plans

Insured

Insured means any person or organization qualifying as an insured under the Who Is Insured provision and against whom **claim** is made or **suit** is brought

Definitions

(continued)

WHEN USED WITH RESPECT TO INSURANCE UNDER THIS CONTRACT:

Personal Injury

Personal injury means injury, other than **bodily injury**, arising out of one or more of the following offenses committed in the course of your business, other than your **advertising**.

- A false arrest, detention or imprisonment,
- B malicious prosecution,
- C the wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person or persons occupy, by or on behalf of its owner, landlord or lessor;
- D oral or written publication of material that slanders or libels a person or organization, or
- E oral or written publication of material that violates a person's right of privacy

Property Damage

Property damage means

- physical injury to or destruction of tangible property including the resulting loss of use of that property, or
- loss of use of tangible property that is not physically injured

Suit

Suit means a civil proceeding in which damages to which this insurance applies are alleged **Suit** also includes

- an arbitration proceeding in which such damages are **claimed** and to which the **insured** must submit or does submit with our consent, or
- any other alternative dispute resolution proceeding in which such damages are **claimed** and to which the **insured** submits with our consent

Liability Insurance

*Computer Software And Services
Errors Or Omissions*

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LIABILITY CONTRACT
 COMPUTER SOFTWARE AND SERVICES

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Computer Software And Services Errors Or Omissions

Contract

Words and phrases that appear in **bold** print have special meanings and are defined in the Definitions section of this contract

Throughout this policy the words "you" and "your" refer to the Named **Insured** shown in the Declarations of this policy, and any other person or organization qualifying as a Named **Insured** under this contract. The words "we," "us" and "our" refer to the company providing this insurance.

In addition to the Named **Insured**, other persons or organizations qualify as **insureds**. Those persons or organizations and the conditions under which they qualify are identified in the Who Is Insured section of this contract.

THIS INSURANCE PROVIDES CLAIMS MADE COVERAGE. EXCEPT AS OTHERWISE PROVIDED, SUCH COVERAGE APPLIES ONLY TO CLAIMS FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD. PLEASE READ THIS INSURANCE CAREFULLY.

Who Is Insured

Sole Proprietorship

If you are an individual, you and your spouse are **insureds**, but only with respect to the conduct of a business of which you are the sole owner

Partnership Or Joint Venture

If you are a partnership or joint venture, you are an **insured**. Your members, your partners, and their spouses are also **insureds**, but only with respect to the conduct of your business

Other Organizations

If you are an organization other than a partnership, joint venture or limited liability company, you are an **insured**. Your **executive officers** and directors are **insureds**, but only with respect to their duties as your officers or directors. Your stockholders are also **insureds** but only with respect to their liability as stockholders

Employees

Your **employees**, other than your **executive officers**, are **insureds**, but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business

Subsidiaries Or Newly Acquired Or Formed Organizations

If there is no other similar insurance available, the following will qualify to be a named **insured**

- Any financially controlled subsidiary of yours, or
- any organization you newly acquired or formed during the policy period, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest. This coverage is effective on the acquisition or formation date and is afforded only until the end of the policy period during which the acquisition or formation took place

Who Is Insured

Subsidiaries Or Newly Acquired Or Formed Organization (continued)

No subsidiary or newly acquired or formed organization is an **insured** with respect to any **claim** arising from:

- the performance of or failure to perform **electronic data processing**;
- the performance of or failure to perform **other computer services**; or
- the failure of **software products** to perform the function or serve the purpose intended, that occurred before you acquired or formed the organization.

Limitation On Who Is Insured

No one is an **insured** for the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a named **insured** in the Declarations

Coverage

Subject to the applicable Limits Of Insurance, we will pay damages the **insured** becomes legally obligated to pay for any **claim** arising out of a negligent act, error or omission, to which this insurance applies, by or on behalf of the **insured**

- in the performance of or failure to perform **electronic data processing**;
- in the performance of or failure to perform **other computer services**; or
- in the failure of **software products** to perform the function or serve the purpose intended.

This insurance applies to a negligent act, error or omission only if a **claim** is first made against any **insured** during the policy period.

This insurance does not apply to any negligent act, error or omission which:

- occurred prior to the Retroactive Date stated in the Declarations of this insurance;
- occurred on or between the Retroactive Date stated in the Declarations of this insurance and the last day of the policy period stated in the Declarations of this insurance if, on the effective date of this insurance, the **insured** had knowledge of or should have known of any circumstances which might have resulted in a **claim**, or
- occurs after the policy period stated in the Declarations of this insurance

For purposes of this insurance

- a **claim** will be deemed to have been made when notice of such **claim** is received and recorded by any **insured**, our licensed agent, or by us, whichever comes first, and
- all **claims** as a result of a negligent act, error or omission will be deemed to have been made at the time the first of those **claims** is made against any **insured**



Computer Software And Services Errors Or Omissions

Limits Of Insurance

The Limits Of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of

- **insureds,**
- **claims** made or **suits** brought; or
- persons or organizations making **claims** or bringing **suits**

The Limits Of Insurance apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits Of Insurance.

We may pay part or all of the deductible to settle any **claim** or **suit**, and when notified, the **insured** agrees to promptly reimburse us for the deductible paid.

All **claims** arising from a single negligent act, error or omission or a series of related negligent acts, errors or omissions shall be deemed to be a single **claim**.

Aggregate Limit

Subject to the Each Claim Limit, the Aggregate Limit is the most we will pay for the sum of

- damages for all **claims**; and
- payments made for defense and Supplementary Payments

Each Claim Limit

The Each Claim Limit is the most we will pay for all damages for each **claim**, including payments made for defense and Supplementary Payments, in excess of the deductible stated in the Declarations.

Any amount paid for damages, defense and Supplementary Payments for each **claim** will reduce the amount of the Aggregate Limit available for payment of damages, defense and Supplementary Payments for any other **claim**.

If the Aggregate Limit has been reduced by payment of damages, defense and Supplementary Payments for **claims** to an amount that is less than the Each Claim Limit, the remaining Aggregate Limit is the most that will be available for payment of damages, defense and Supplementary Payments for any other **claim**.

Investigation, Defense And Payment Of Damages

We will have the right and duty to defend any **insured** against a **suit** seeking damages for any **claim** arising out of a negligent act, error, or omission. However, we will have no duty to defend any **insured** against a **suit** seeking damages to which this insurance does not apply. We may at our discretion investigate any negligent act, error, or omission and settle any **claim** or **suit** that may result.

The amount we will pay for damages is limited as described in Limits Of Insurance. Our right and duty to defend end when we have used up the applicable Limit Of Insurance in the payment of defense, judgments or settlements and payments under Supplementary Payments.

The amount we pay to defend any **suit** is part of and will reduce the Each Claim Limit under Limits Of Insurance.

We have no further obligation or liability to pay sums or perform acts or services unless explicitly provided for under Supplementary Payments shown below.

Supplementary Payments

Subject to the Limits Of Insurance, we will pay with respect to any **claim** we investigate or settle, or any **suit** against an **insured** we defend:

- A all expenses we incur;
- B the premium amount of bonds to release attachments, but only for premium amounts within the amount of insurance available. We do not have to furnish these bonds.
- C reasonable expenses incurred by the **insured** at our request to assist us in the investigation or defense of the **claim** or **suit**, including actual loss of earnings up to \$300 a day because of time off from work;
- D costs taxed against the **insured** in the **suit**;
- E pre-judgment interest awarded against the **insured** on that part of the judgment we pay. If we make an offer to pay the applicable Limit Of Insurance, we will not pay any pre-judgment interest based on that period of time after the offer; and
- F all interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable Limit Of Insurance.

Each payment we make under Supplementary Payments will reduce the Each Claim Limit under Limits Of Insurance with the following exceptions.

- A salaries and expenses of our employees or the **insured's employees**, other than
 - 1 that portion of our employed attorneys' fees, salaries and expenses allocated to a specific **claim** or **suit**;
 - 2 the expenses described in C. above; and
- B. fees and expenses of independent adjusters we hire.

Coverage Territory

This insurance applies anywhere. However, the **insured's** responsibility to pay damages must be determined in a **suit** on the merits, in the United States of America, its territories or possessions, Canada or Puerto Rico, or in a settlement we agree to.

Exclusions

Bankruptcy

This insurance does not apply to any **claim** arising out of the bankruptcy or insolvency of the **insured** or any other person, firm or organization.

Bodily Injury, Advertising Injury, Or Personal Injury

This insurance does not apply to **bodily injury, advertising injury or personal injury**.

Contractual Liability

This insurance does not apply to liability of others for which the **insured** is obligated to pay damages by reason of the assumption of liability in a contract or agreement.

This exclusion does not apply to liability for damages that the **insured** would have in the absence of such contract or agreement.



Computer Software And Services Errors Or Omissions

Exclusions

(continued)

- Cost Guarantees** This insurance does not apply to cost guarantees, or estimates of probable costs or cost estimates being exceeded
- Dishonest Acts** This insurance does not apply to any dishonest, fraudulent, criminal or malicious acts, errors or omissions by or on behalf of any **insured**, whether acting alone or in collusion with others
- Expected Or Intended Damage** This insurance does not apply to any **claim** which results from an act that
- is intended by the **insured**, or
 - can be expected from the standpoint of a reasonable person
- to cause damage, even if the damage is of a different degree or type than actually intended or expected.
- Infringement Of Copyright, Trademark Or Patent** This insurance does not apply to infringement of copyright, trademark or patent
- Performance Delay** This insurance does not apply to a delay by or on behalf of the **insured** with respect to the performance of any contract or agreement
- This exclusion does not apply if such delay is the result of a negligent act, error or omission by or on behalf of the **insured**
- in the performance of or failure to perform **electronic data processing**,
 - in the performance of or failure to perform **other computer services**, or
 - in the failure of **software products** to perform the function or serve the purpose intended after installation
- Pollution** This insurance does not apply to
- A any liability arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release, or escape of **pollutants**, or
- B any loss, cost or expense arising out of any
- 1 request, demand or order that any **insured** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of **pollutants**; or
 - 2 **claim or suit** by or on behalf of any governmental authority or others for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, or neutralizing, or in any way responding to, or assessing the effects of **pollutants**

Exclusions

(continued)

Product Recall

This insurance does not apply to any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of

- **software products;** or
- **your work,**

if such product or work is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy, or dangerous condition in it

This exclusion does not apply to **claims** for loss of use resulting from such withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal

Property Damage

This insurance does not apply to **property damage claims** for which coverage is provided under the General Liability contract contained in this policy, or which would have been provided except for exhaustion of its Limits Of Insurance by payment of **claims**

Property Owned

This insurance does not apply to damage to property owned by any **insured**

Security Breach

This insurance does not apply to failure or lack of the **software products** to prevent unauthorized access to or use of an electronic system or program.

This exclusion does not apply if such unauthorized access is the result of a malfunction of the **software products**

Services Or Equipment For Nuclear Facility

This insurance does not apply to **electronic data processing, other computer services or software products** furnished by an **insured** in connection with planning, construction, maintenance, operation or use of any **nuclear facility**

Theft Of Intellectual Property

This insurance does not apply to theft or wrongful taking of concepts or other intellectual property

Unfair Competition Or Piracy

This insurance does not apply to unfair competition or piracy

Wear And Tear

This insurance does not apply to wear and tear or gradual deterioration

Extended Reporting Periods

Basic Extended Reporting Period

A Basic Extended Reporting Period is automatically provided Under this provision

- **claims** first made within 60 days after the end of the policy period, or



Computer Software And Services Errors Or Omissions

Extended Reporting Periods

Basic Extended Reporting Period (continued)

- **claims** first made within five years after the end of the policy period for negligent acts, errors or omissions reported to us within 60 days after the end of the policy period

will be deemed to have been made during the policy period of this policy

The Basic Extended Reporting Period does not apply to **claims** that are covered under any subsequent insurance you purchase, or that would be covered, but for exhaustion of the amount of insurance applicable to such **claims**

Notification of **claims** must be in accordance with paragraphs A. and B. of the Duties In The Event Of Negligent Act, Error, Or Omission, Claim Or Suit provision of the Conditions

Supplemental Extended Reporting Period

A Supplemental Extended Reporting Period is available only by an endorsement and for an additional premium:

- A. If purchased, this period starts at the end of the Basic Extended Reporting Period and is for an unlimited time. **Claims** first made during this Supplemental Extended Reporting Period will be deemed to have been made during the policy period of this policy, but will be subject to the separate aggregate limit of insurance set forth in paragraph C, below
- B. You must give us a written request to purchase a Supplemental Extended Reporting Period within 60 days after the end of the policy period. The Supplemental Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due
- C. If you comply with paragraph B, above, we will issue the Supplemental Extended Reporting Period Endorsement, and will provide the separate aggregate limit of insurance described below, but only for **claims** to which the Supplemental Extended Reporting Period applies. The separate aggregate Limit Of Insurance will be equal to the dollar amount shown in the Declarations in effect at the end of the policy period for the Aggregate Limit.

The Aggregate Limit as shown in the Limits Of Insurance section will be amended accordingly. The Each Claim Limit shown in the Declarations will continue to apply, as set forth in the Limits of Insurance section
- D. We will determine the additional premium for the Supplemental Extended Reporting Period Endorsement in accordance with our rules and rates. The additional premium will not exceed 200% of the annual premium for this insurance
- E. The Supplemental Extended Reporting Period Endorsement will set forth the terms, not inconsistent with this Section, applicable to the Supplemental Extended Reporting Period, including a provision to the effect that the insurance afforded is excess over any other valid and collectible insurance available under policies in force after the Supplemental Extended Reporting Period starts.

When Extended Reporting Periods Apply

We will automatically provide a Basic Extended Reporting Period and, if you purchase it, a Supplemental Extended Reporting Period if

- A. this insurance is canceled or not renewed, or
- B. we renew or replace this insurance with other insurance that

Extended Reporting Periods

- When Extended Reporting Periods Apply (continued)*
- 1 has a Retroactive Date later than the Retroactive Date shown in the Declarations for this insurance, or
 - 2 does not apply on a **claims**-made basis.

How Extended Reporting Periods Apply

Extended Reporting Periods

- A apply only to **claims** for
 - 1. negligent acts, errors or omissions that occur before the end of the policy period and not before the Retroactive Date, if any, shown in the Declarations
- B do not
 - 1 extend the policy period or change the scope of coverage provided; or
 - 2 reinstate or increase the Limits Of Insurance applicable to any **claim** to which this insurance applies, except as described in the Supplemental Extended Reporting Period section above
- C may not be canceled once in effect

Conditions

Arbitration

We are entitled to exercise all of the **insured's** rights in the choice of arbitrators and the conduct of any arbitration proceeding, except when the proceeding is between us and the **insured**

Bankruptcy

Bankruptcy or insolvency of the **insured** or the **insured's** estate will not relieve us of any obligation to which this insurance applies

Duties In The Event Of Negligent Act, Error, Or Omission, Claim Or Suit

- A You must see to it that we are notified as soon as practicable of any negligent act, error, or omission which may result in a **claim**. To the extent possible, notice should include
 - 1 how, when and where the negligent act, error, or omission took place, and
 - 2 the names and addresses of any involved persons and witnesses

Notice of any negligent act, error, or omission is not notice of a **claim**
- B If a **claim** is made or **suit** is brought against any **insured**, you must
 - 1. immediately record the specifics of the **claim** or **suit** and the date received, and
 - 2 notify us in writing as soon as practicable
- C You and any other involved **insured** must:
 - 1 immediately send us copies of any demands, notices, summonses or legal papers received in connection with the **claim** or **suit**,
 - 2 authorize us to obtain records and other information,
 - 3 cooperate with us in the
 - a investigation or settlement of the **claim** or



Computer Software And Services Errors Or Omissions

Conditions

Duties In The Event Of Negligent Act, Error, Or Omission, Claim Or Suit (continued)

- b defense of the **suit**, and
- 4 assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the **insured** because of a negligent act, error, or omission to which this insurance may also apply.
- D No **insureds** will, except at that **insured**'s own cost, make a payment, assume any obligation, or incur any expense, without our consent
- E Notice given by or on behalf of
 - 1 the **insured**; or
 - 2 any other claimant;
 to any licensed agent of ours with particulars sufficient to identify the **insured** shall be deemed notice to us
- F Knowledge of any negligent act, error, or omission by any agent or **employee** of the **insured** will not constitute knowledge by the **insured**, unless an officer or his designee receives such notice from its agent or **employee**
- G Failure of an agent or **employee** of the **insured**, other than an officer, or his designee, to notify us of any negligent act, error, or omission which he knows about will not affect the insurance afforded you by this contract

Legal Action Against Us

- No person or organization has a right under this insurance
- to join us as a party or otherwise bring us into a **suit** asking for damages from an **insured**, or
 - to sue us on this insurance unless all of its terms have been fully complied with
- A person or organization may sue us to recover on an **agreed settlement** or on a final judgment against an **insured** obtained after
- an actual trial in a civil proceeding,
 - an arbitration proceeding, or
 - an alternative resolution proceeding,
- but we will not be liable for damages that are not payable under the terms of this insurance or that are in excess of the applicable Limits of Insurance

Other Insurance

If other valid and collectible insurance is available to the **insured** for a loss we cover under this insurance, our obligations are limited as follows

Excess Insurance

This insurance is excess over and above any other valid and collectible insurance (including any deductible or self-insured portion) or agreement of indemnity, available to you

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis that is effective prior to the beginning of the policy period shown in the Declarations of this insurance and applies to

- the performance of or failure to perform **electronic data processing**,
- the performance of or failure to perform **other computer services**, or

Conditions

Other Insurance (continued)

- the failure of **software products** to perform the function or serve the purpose intended, on other than a claims made basis, if
- no Retroactive Date is shown in the Declarations of this insurance, or
- the other insurance has a policy period which continues after the Retroactive Date shown in the Declarations of this insurance

We will have no duty under this insurance to defend any **insured** against a **suit** that any other insurer has a duty to defend. If no other insurer defends, we will undertake to do so, but we will be entitled to the **insured's** rights against all those other insurers.

We will pay only our share of the amount of the loss, if any, that exceeds the sum of.

- the total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- the total of all deductible and self-insured amounts under all that other insurance

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not purchased specifically to apply in excess of the Limits Of Insurance shown in the Declarations of this insurance.

Premium Audit

We will compute all premiums for this insurance in accordance with our rules and rates.

In accordance with the Estimated Premiums section of the Premium Summary, premiums identified by an asterisk are estimated premiums and are subject to audit. In addition to or in lieu of such designation in the Premium Summary, premiums may be designated as estimated premiums in the Liability Insurance section of this policy. In that event, these premiums will also be subject to audit and the second paragraph of the Estimated Premiums section of the Premium Summary will apply.

Separation Of Insureds

Except with respect to the Limits Of Insurance and any rights or duties specifically assigned in this insurance to the first named **insured**, this insurance applies

- as if each named **insured** were the only named **insured**, and
- separately to each **insured** against whom **claim** is made or **suit** is brought.

Transfer Of Rights Of Recovery

If the insured has rights to recover all or part of any payment we have made under this insurance, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring suit or transfer those rights to us and help us enforce them.



Computer Software And Services Errors Or Omissions

Definitions

WHEN USED WITH RESPECT TO INSURANCE UNDER THIS CONTRACT:

Advertising

Advertising means any advertisement, publicity article, broadcast or telecast

Advertising Injury

Advertising injury means injury, other than **bodily injury** or **personal injury**, arising solely out of one or more of the following offenses committed in the course of **advertising** of your goods, products or services

- oral or written publication of advertising material that slanders or libels a person or organization;
- oral or written publication of advertising material that violates a person's right of privacy; or
- infringement of copyrighted advertising materials or infringement of trademarked or service marked titles or slogans.

Agreed Settlement

Agreed settlement means a settlement and release of liability signed by us, the **insured** and the claimant or the claimant's legal representative.

Bodily Injury

Bodily injury means physical injury, sickness, disease, mental anguish, mental injury, shock, or humiliation sustained by a person; it also includes death at any time resulting therefrom

Claim

Claim means a demand for damages by a customer

Electronic Data Processing

Electronic data processing means those activities usual to the processing of data or records of others

Employee

Employee includes a **leased worker** but does not include a **temporary worker**.

Executive Officer

Executive officer means a person holding any of the officer positions created by your charter, constitution or by-laws.

Insured

Insured means any person or organization qualifying as an insured under the Who Is Insured provision and against whom **claim** is made or **suit** is brought

Leased Worker

Leased worker means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. **Leased worker** does not include a **temporary worker**

Nuclear Facility

Nuclear facility means.

- A. any **nuclear reactor**,

Definitions**WHEN USED WITH RESPECT TO INSURANCE UNDER THIS CONTRACT:****Nuclear Facility**
(continued)

- B any equipment or device designed or used for
- 1 separating the isotopes of uranium or plutonium;
 - 2 processing or utilizing **spent fuel**; or
 - 3 handling, processing or packaging **nuclear waste**;
- C any equipment or device used for the processing, fabricating or alloying of **special nuclear material** if at any time the total amount of such material in the custody of the **insured** at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,
- D any structure, basin, excavation, premises or place prepared or used for the storage or disposal of **nuclear waste**,

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.

Nuclear Reactor

Nuclear reactor means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material

Nuclear Waste

Nuclear waste means any waste material:

- A containing **by-product material** other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its **source material** content, and
- B resulting from the operation by any person or organization of any **nuclear facility** included within the definition of **nuclear facility** under paragraph A. or B

Other Computer Services

Other computer services means electronic data processing hardware and software consulting, analysis or design; computer hardware maintenance for others, and your distribution or sale of computer hardware

Personal Injury

Personal injury means injury, other than **bodily injury**, arising out of one or more of the following offenses committed in the course of your business, other than your **advertising**.

- A false arrest, detention or imprisonment,
- B malicious prosecution,
- C the wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person or persons occupy, by or on behalf of its owner, landlord or lessor,
- D oral or written publication of material that slanders or libels a person or organization.



Computer Software And Services Errors Or Omissions

Definitions

WHEN USED WITH RESPECT TO INSURANCE UNDER THIS CONTRACT:

Personal Injury (continued)

- E oral or written publication of material that violates a person's right of privacy, or
- F. discrimination (unless insurance thereof is prohibited by law) based on race, color, religion, sex, age or national origin

Pollutants

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be disposed of, recycled, reconditioned or reclaimed

Property Damage

Property damage means

- physical injury to tangible property including the resulting loss of use of that property; or
- loss of use of tangible property that is not physically injured

Software Products

Software products means computer software or programming which you or others trading under your name created, manufactured, sold, licensed, handled or distributed.

Source Material, Special Nuclear Material, and By-Product Material

Source material, special nuclear material, and by-product material have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof

Spent Fuel

Spent fuel means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a **nuclear reactor**

Suit

Suit means a civil proceeding in which damages to which this insurance applies are alleged **Suit** also includes

- an arbitration proceeding in which such damages are **claimed** and to which the **insured** must submit or does submit with our consent, or
- any other alternative dispute resolution proceeding in which such damages are **claimed** and to which the **insured** submits with our consent

Temporary Worker

Temporary worker means a person who is furnished to you for a finite time period to support or supplement your work force in special work situations such as **employee** absences, temporary skill shortages and seasonal workloads

Your Work

Your work means

- work or operations performed by you or on your behalf, and
- materials, parts or equipment furnished in connection with such work or operations

Definitions

WHEN USED WITH RESPECT TO INSURANCE UNDER THIS CONTRACT:

Your Work
(continued)

Your work includes

- warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of **your work**; and
- the providing of or failure to provide warnings or instructions

LIABILITY
ENDORSEMENTS

Liability Insurance Section

Endorsements



Liability Insurance

Endorsement

Policy Period APRIL 30, 1998 TO APRIL 30, 1999

Effective Date APRIL 30, 1998

Policy Number 3535-11-19

Insured NETSCAPE COMMUNICATIONS CORPORATION
(SEE NAMED INSURED ENDT)

Name of Company FEDERAL INSURANCE COMPANY

Date Issued SEPTEMBER 1, 1998

This Endorsement applies to the following forms

GENERAL LIABILITY
PREMISES/OPERATIONS

Bodily Injury/Property Damage Exclusions

Employer's Liability Under Bodily Injury/Property Damage Exclusions, the exclusion titled Employer's Liability is deleted

A section titled Bodily Injury/Property Damage/Personal Injury Exclusions is added to the contract and the following exclusion is added

Bodily Injury/Property Damage/Personal Injury Exclusions

Employer's Liability This insurance does not apply to any **bodily injury, property damage or personal injury** to

A an **employee** of the **insured** arising out of and in the course of

 1 employment by the **insured**, or

 2 performing duties related to the conduct of the **insured**'s business,

B an **employee** or former **employee** of any **insured**, whether or not arising out of or in the course of employment by any **insured**, or an applicant for employment with any **insured**, if the **bodily injury, property damage or personal injury** arises out of any.

 1 Refusal to employ,

 2 Termination of employment

**Bodily Injury/Property
Damage/Personal
Injury Exclusions**

Employer's Liability
(continued)

- 3 Breach of any express or implied covenants;
 - 4. Coercion;
 - 5 Demotion;
 - 6 Evaluation;
 - 7. Reassignment,
 - 8. Discipline;
 - 9 Defamation;
 - 10 Harassment;
 - 11. Humiliation;
 - 12 Discrimination; or
 - 13 Other employment related practices, policies, acts or omissions; or
 - 14 Consequential **bodily injury** or **personal injury** as a result of 1 through 13;
- C The spouse, child, parent, brother or sister of that **employee**, former **employee** or any applicant for employment as a consequence of A or B above.

This exclusion applies:

- whether the **insured** may be held liable as an employer or in any other capacity; and
- to any obligation to share damages with or repay someone else who must pay damages because of the injury

Exclusion A , above, does not apply to liability for **bodily injury** assumed by the **insured** under an **insured contract**.

All other terms and conditions remain unchanged.



Authorized Representative



Liability Insurance

Endorsement

<i>Policy Period</i>	APRIL 30, 1998 TO APRIL 30, 1999
<i>Effective Date</i>	APRIL 30, 1998
<i>Policy Number</i>	3535-11-19
<i>Insured</i>	NETSCAPE COMMUNICATIONS CORPORATION (SEE NAMED INSURED ENDT)
<i>Name of Company</i>	FEDERAL INSURANCE COMPANY
<i>Date Issued</i>	SEPTEMBER 1, 1998

This Endorsement applies to the following forms.

GENERAL LIABILITY
 PREMISES/OPERATIONS
 PRODUCTS/COMPLETED OPERATIONS
 EMPLOYEE BENEFITS ERRORS OR OMISSIONS
 COMPUTER SOFTWARE AND SERVICES ERRORS OR OMISSIONS

Under Investigation, Defense And Payment of Damages, the following provisions are added

Investigation, Defense And Payment Of Damages

With respect to any claim for damages arising out of your California operations.

- A If a conflict of interest arises which creates a duty on our part to provide the **insured** independent counsel, we will provide such counsel unless, at the time we inform the **insured** of the possible conflict, the **insured** expressly waives, in writing, the right to such counsel
- B When the **insured** has selected independent counsel
 - 1 we require that the selected counsel have at least five years of tort litigation practice which includes substantial defense experience in the subject at issue in the litigation, and they must carry errors and omissions coverage
 - 2 it shall be the duty of such counsel and the **insured** to disclose to us all information concerning the action, except privileged materials relevant to coverage disputes, and to inform and consult with us in all matters relating to the action. Any claim of privilege asserted is subject to in camera review in the appropriate law and motion department of the Superior Court. Any information disclosed by the **insured** or by such counsel is not a waiver of the privilege as to any other party, and
 - 3 both the counsel provided by us and the counsel the **insured** has selected shall be allowed to participate in all aspects of the litigation. Counsel shall cooperate fully in the

Liability Endorsement

(continued)

exchange of information consistent with each counsel's ethical and legal obligation to the **insured**. Nothing in this section shall relieve the **insured** of their duty to cooperate with us under the terms of this insurance policy.

- C Our obligation to pay fees to counsel selected by the **insured** is limited to the rates which we actually pay to counsel we retain in the ordinary course of business in the defense of similar actions in the community where the claim is being defended. Any dispute concerning counsel fees shall be resolved by final and binding arbitration by a single neutral arbitrator selected by the parties to the dispute.
- D No conflict of interest shall be deemed to exist as to the allegations of punitive damages or be deemed to exist solely because an **insured** is sued for an amount in excess of the insurance policy limits.

All other terms and conditions remain unchanged

Authorized Representative





Liability Insurance

Endorsement

<i>Policy Period</i>	APRIL 30, 1998 TO APRIL 30, 1999
<i>Effective Date</i>	APRIL 30, 1998
<i>Policy Number</i>	3535-11-19
<i>Insured</i>	NETSCAPE COMMUNICATIONS CORPORATION (SEE NAMED INSURED ENDT.)
<i>Name of Company</i>	FEDERAL INSURANCE COMPANY
<i>Date Issued</i>	SEPTEMBER 1, 1998

This Endorsement applies to the following forms

GENERAL LIABILITY
PREMISES/OPERATIONS

Under Who Is Insured, the following provision is added

Who Is Insured

*Owners, Lessees Or
Contractors*

Any person or organization designated below is an **insured**, but only with respect to their liability as owner, lessee or contractor arising out of your ongoing operations performed for that **insured**.

Designated Owner, Lessee Or Contractor

CITY OF MOUNTAIN, PUBLIC WORKS DEPARTMENT

All other terms and conditions remain unchanged

Authorized Representative



Liability Insurance

Endorsement

Policy Period APRIL 30, 1998 TO APRIL 30, 1999
Effective Date APRIL 30, 1998
Policy Number 3535-11-19
Insured NETSCAPE COMMUNICATIONS CORPORATION
 (SEE NAMED INSURED ENDT)
Name of Company FEDERAL INSURANCE COMPANY
Date Issued SEPTEMBER 1, 1998

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This Endorsement applies to the following forms.

GENERAL LIABILITY

Under Liability Conditions, Transfer Of Rights Of Recovery, the following provision is added

Liability Conditions

Waiver Of Transfer Of Rights Of Recovery

However, we waive any right of recovery we may have against the designated person or organization shown below because of payments we make for injury or damage arising out of your ongoing operations or done under a contract with that person or organization and included in the **products-completed operations hazard** This waiver applies only to the designated person or organization

Designated Person Or Organization

LUCENT TECHNOLOGIES, INC

All other terms and conditions remain unchanged

Authorized Representative



Liability Insurance

Endorsement

Policy Period APRIL 30, 1998 TO APRIL 30, 1999

Effective Date APRIL 30, 1998

Policy Number 3535-11-19

Insured NETSCAPE COMMUNICATIONS CORPORATION
(SEE NAMED INSURED ENDT)

Name of Company FEDERAL INSURANCE COMPANY

Date Issued SEPTEMBER 1, 1998

This Endorsement applies to the following forms

GENERAL LIABILITY

INDEPENDENT CONTRACTORS

IT IS HEREBY AGREED THAT THE DEFINITION OF EMPLOYEE UNDER FORM 80-02-2000, PAGE 19 OF 25, IS DELETED AND REPLACED WITH THE FOLLOWING

EMPLOYEE

EMPLOYEE INCLUDES A LEASED WORKER AND INDEPENDENT CONTRACTOR, BUT DOES NOT INCLUDE HP2 A TEMPORARY WORKER

IT IS ALSO AGREED THAT THE FOLLOWING DEFINITION IS ADDED TO FORM 80-02-2000:

MEANS A PERSON CONTRACTED BY YOU IN THE PERFORMANCE OF A INSURED CONTRACT BETWEEN YOU AND THE PERSON, TO PERFORM DUTIES RELATED TO THE CONDUCT OF YOUR BUSINESS.

TO PER

DOES NOT INCLUDE A

All other terms and conditions remain unchanged.

Authorized Representative



Robert Hamburger



Liability Insurance

Endorsement

Policy Period APRIL 30, 1998 TO APRIL 30, 1999

Effective Date APRIL 30, 1998

Policy Number 3535-11-19

Insured NETSCAPE COMMUNICATIONS CORPORATION
(SEE NAMED INSURED ENDT)

Name of Company FEDERAL INSURANCE COMPANY

Date Issued SEPTEMBER 1, 1998

This Endorsement applies to the following forms

COMPUTER SOFTWARE AND SERVICES ERRORS OR OMISSIONS

COVERAGE TERRITORY E&O

"COVERAGE TERRITORY" FOR COMPUTER SOFTWARE AND SERVICES ERRORS OR OMISSIONS INSURANCE ON P 7 OF 20 OF FORM 80-02-2013 IS AMENDED TO READ

THIS INSURANCE APPLIES ANYWHERE. HOWEVER, THE INSURED'S RESPONSIBILITY TO PAY DAMAGES MUST BE DETERMINED IN A SUIT ON THE MERITS ANYWHERE IN THE WORLD, OR IN A SETTLEMENT WE AGREE TO.

All other terms and conditions remain unchanged

Authorized Representative



Policy Conditions

Schedule of Forms

Policy Period APRIL 30, 1998 TO APRIL 30, 1999
Effective Date APRIL 30, 1998
Policy Number 3535-11-19
Insured NETSCAPE COMMUNICATIONS CORPORATION
 (SEE NAMED INSURED ENDT)
Name of Company FEDERAL INSURANCE COMPANY
Date Issued SEPTEMBER 1, 1998

The following is a schedule of forms issued as of the date shown above

<i>Form Number</i>	<i>Edition Date</i>	<i>Form Name</i>	<i>Effective Date</i>	<i>Date Issued</i>
80-02-9090	4-94	COMMON POLICY CONDITIONS	04/30/98	09/01/98
80-02-9310	4-94	NAMED INSURED	04/30/98	09/01/98
80-02-9501	4-94	AMENDED POLICY CONDITIONS - INTERNATIONAL	04/30/98	09/01/98
80-02-9717	4-94	CALIFORNIA MANDATORY-COMMON-CANCEL/NONRENEW	04/30/98	09/01/98

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Common Policy Conditions

Contract

Conditions

The following Conditions are included under each part of the policy, unless stated otherwise.

Audit Of Books And Records

We may audit your books and records as they relate to this insurance at any time during the term of this policy and up to three years afterwards

Cancellation

The first named insured may cancel this policy or any of its individual coverages at any time by sending us a written request or by returning the policy and stating when thereafter cancellation is to take effect.

We may cancel this policy or any of its individual coverages at any time by sending to the first named insured a notice 60 days (20 days in the event of non-payment of premium) in advance of the cancellation date. Our notice of cancellation will be mailed to the first named insured's last known address, and will indicate the date on which coverage is terminated. If notice of cancellation is mailed, proof of mailing will be sufficient proof of notice.

The earned premium will be computed on a pro rata basis. Any unearned premium will be returned as soon as practicable.

Changes

This policy can only be changed by a written endorsement that becomes part of this policy. The endorsement must be signed by one of our authorized representatives.

Compliance By Insureds

We have no duty to provide coverage under this policy unless you and any other involved insured have fully complied with all of the terms and conditions of the policy.

Conformance

Any terms of this insurance which are in conflict with the applicable statutes of the State in which this policy is issued are amended to conform to such statutes.

First Named Insured

The person or organization first named in the Declarations is primarily responsible for payment of all premiums. The first named insured will act on behalf of all other named insureds for the giving and receiving of notice of cancellation or nonrenewal and the receiving of any return premiums that become payable under this policy.

Inspections And Surveys

We may

- make inspections and surveys at any time,
- give you reports on the conditions we find, and
- recommend changes

Conditions

*Inspections And Surveys
(continued)*

Any inspections, surveys, reports or recommendations relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:

- are safe or healthful, or
- comply with laws, regulations, codes or standards.

This condition applies not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations for us.

Titles Of Paragraphs

The titles of the various paragraphs of this policy and endorsements, if any, attached to this policy are inserted solely for convenience or reference and are not to be deemed in any way to limit or affect the provisions to which they relate

Transfer Of Rights And Duties

Your rights and duties under this insurance may not be transferred without our written consent. However, if you die, then your rights and duties will be transferred to your legal representative, but only while acting within the scope of duties as your legal representative, or to anyone having temporary custody of your property until your legal representative has been appointed

When We Do Not Renew

If we decide not to renew this policy, we will mail or deliver to the first named insured stated in the Declarations written notice of the nonrenewal not less than 60 days before the expiration date. If notice of nonrenewal is mailed, proof of mailing will be sufficient proof of notice

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Common Policy Conditions Section

Endorsements

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Liability Insurance

Schedule of Forms

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<i>Form Number</i>	<i>Edition Date</i>	<i>Form Name</i>	<i>Effective Date</i>	<i>Date Issued</i>
80-02-2345	4-94	EMPLOYERS LIABILITY EXCLUSION	04/30/98	09/01/98
80-02-0010	4-94	LIABILITY DECLARATIONS	04/30/98	09/01/98
80-02-2000	4-94	GENERAL LIABILITY	04/30/98	09/01/98
80-02-2012	4-94	EMPLOYEE BENEFITS ERRORS OR OMISSIONS	04/30/98	09/01/98
80-02-2013	4-94	COMPUTER SOFTWARE & SERV. ERRORS OR OMISSIONS	04/30/98	09/01/98
80-02-2305	4-94	ADD L INSURED - OWNERS, LESSEES OR CONTRACTORS	04/30/98	09/01/98
80-02-2328	4-94	CUMIS - CALIFORNIA	04/30/98	09/01/98
80-02-2362	4-94	CONDITION-WAIVER OF TRANS /RIGHTS OF RECOVERY	04/30/98	09/01/98
80-02-2373	4-94	INDEPENDENT CONTRACTOR	04/30/98	09/01/98
80-02-2373	4-94	E&O TERRITORY DEFINITION	04/30/98	09/01/98

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